

2023 UPDATE

GREECE



# COUNTRY REPORT

## Acknowledgements & Methodology

The present updated report was written by Spyros-Vlad Oikonomou and Alkistis Agrafioti Chatzigianni, Agapi Chouzouraki, Aikaterini Drakopoulou, Kyriaki Fileri, Eleni Kagiou, Chara Kallinteri, Chara Katsigianni, Zikos Koletsis, Alexandros Konstantinou, Maria Papadopoulou, Olga Papadopoulou, Maria Papamina, Eleni Pasia, Klotildi Prountzou, Orestis Skandalis, Aggeliki Theodoropoulou, Maria Tsiota, Anastasia Vrychea and Eleni Vryoni, members of the Greek Council for Refugees (GCR) Legal Unit. The report was edited by ECRE.

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The 2023 update to the AIDA country report on Greece was sent to the Ministry of Migration and Asylum to grant the Ministry the opportunity to provide comments on the draft country report. The comments were taken into account by the authors and are published in a [separate annex](#) on the AIDA website.

The information in this report is up-to-date as of 31 December 2023, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Glossary

Asylum Code	L. 4939/2022 'Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons'
EU-Türkiye statement	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Türkiye.
Fast-track border procedure	Expedient version of the border procedure, governed by Article 95(3) Asylum Code and applicable in exceptional circumstances on the basis of a Ministerial Decision.
Objections against detention	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
Reception and Identification Centre	Centre in border areas and on the mainland where entrants are identified and referred to asylum or return proceedings.

## List of Abbreviations

<b>ADET</b>	Single Type Residence Permit
<b>AMEY</b>	Health Unit SA   Ανώνυμη Εταιρεία Μονάδων Υγείας
<b>AIRE</b>	Advice on Individual Rights in Europe
<b>AFM</b>	Tax Number   Αριθμός Φορολογικού Μητρώου
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>AMKA</b>	Social Security Number   Αριθμός Μητρώου Κοινωνικής Ασφάλισης
<b>AAU</b>	Autonomous Asylum Unit   Αυτοτελές Κλιμάκιο Ασύλου
<b>AVRR</b>	Assisted Voluntary Return and Reintegration
<b>CCAC</b>	Closed Controlled Access Centres (of Islands)
<b>CERD</b>	United Nations Committee on the Elimination of Racial Discrimination
<b>CJEU</b>	Court of Justice of the European Union
<b>DYEP</b>	Refugee Reception and Education Facilities   Δομές Υποδοχής και Εκπαίδευσης Προσφύγων
<b>DOATAP</b>	Διεπιστημονικός Οργανισμός Αναγνώρισης Τίτλων Ακαδημαϊκών και πληροφόρησης  Hellenic National Academic Recognition and Information Centre
<b>EASO</b>	European Asylum Support Office
<b>EUAA</b>	European Union Agency for Asylum
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EKKA</b>	National Centre of Social Solidarity   Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
<b>ELIAMEP</b>	Hellenic Foundation for European and Foreign Policy   Ελληνικό Ίδρυμα Ευρωπαϊκής και Εξωτερικής Πολιτικής
<b>ESTIA</b>	Emergency Support to Integration and Accommodation
<b>EODY</b>	National Organisation of Public Health   Εθνικός Οργανισμός Δημόσιας Υγείας
<b>GAS</b>	Greek Asylum Service
<b>GCR</b>	Greek Council for Refugees   Ελληνικό Συμβούλιο για τους Πρόσφυγες
<b>GSPVIP</b>	General Secretariat for Vulnerable Persons and Institutional Protection
<b>IPA</b>	International Protection Act   Νόμος Περί Διεθνούς Προστασίας
<b>JMD</b>	Joint Ministerial Decision   Κοινή Υπουργική Απόφαση
<b>KEA</b>	Social Solidarity Income   Κοινωνικό Επίδομα Αλληλεγγύης
<b>KEELPNO</b>	Hellenic Centre for Disease Control and Prevention   Κέντρο Ελέγχου και Πρόληψης Νοσημάτων
<b>L</b>	Law   Νόμος
<b>MD</b>	Ministerial Decision   Υπουργική Απόφαση
<b>MoMA</b>	Ministry of Migration and Asylum
<b>NCHR</b>	National Commission for Human Rights   Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου
<b>NERM</b>	National Emergency Response Mechanism
<b>NTA</b>	National Transparency Agency
<b>ΠΑΑΥΠΑ</b>	Foreigner's Temporary Insurance and Health Coverage Number   Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περίθαλψης Αλλοδαπού
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PRDC</b>	Pre-removal Detention Centres   Προαναχωρησιακά Κέντρα Κράτησης (Προ.Κε.Κ.Α)
<b>PD</b>	Presidential Decree   Προεδρικό Διάταγμα
<b>RIC</b>	Reception and Identification Centre   Κέντρο Υποδοχής και Ταυτοποίησης
<b>RIS</b>	Reception and Identification Service   Υπηρεσία Υποδοχής και Ταυτοποίησης

<b>RAO</b>	Regional Asylum Office   Περιφερειακό Γραφείο Ασύλου
<b>RVRN</b>	Racist Violence Recording Network
<b>SSPUM</b>	Special Secretary for the Protection of Unaccompanied Minors, replaced by the General Secretariat for Vulnerable Persons and Institutional Protection (GSVPIP), pursuant to PD 77/2023
<b>STC</b>	Safe Third Country
<b>TP</b>	Temporary protection
<b>TPD</b>	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
<b>UAM</b>	Unaccompanied minors
<b>UNHCR</b>	United Nations High Commissioner for Refugees



## Statistics

### Overview of statistical practice

Monthly statistics are published by the Ministry of Migration and Asylum,<sup>1</sup> however detailed data on breakdown per nationalities are not included. Moreover, percentage of recognition/rejection rate is calculated on the basis of the total number of decisions (including inadmissible decisions, implicit withdrawals, archived cases, etc.) having as a result a certain underestimation of the international protection recognition rate compared to the actual recognition rate based on the in-merits decision issued.

### Applications and granting of protection status at first instance in 2023:

	Applicants in 2023	Pending at end of 2023	Total decisions in 2023	Total in merit decisions	Total rejection	In merit rejection	Refugee status	Subsidiary protection	Humanitarian protection
<b>Total</b>	64,212 <sup>2</sup>	29,885	41,430 <sup>3</sup>	32,529	16,494	7,593	24,345	591	Abolished by Article 20 L. 4825/2021

Breakdown by countries of origin of the total numbers

<b>Palestine</b>	6,736	-	-	-	-	-	6,357	34	n/a
<b>Afghanistan</b>	9,488	-	-	-	-	-	6,009	91	n/a
<b>Iraq</b>	6,455	-	-	-	-	-	5,181	25	n/a
<b>Syria</b>	14,015	-	-	-	-	-	2,699	2	n/a
<b>Somalia</b>	2,935	-	-	-	-	-	784	91	n/a
<b>Eritrea</b>	1,826	-	-	-	-	-	828	2	n/a
<b>DR Congo</b>	1,528	-	-	-	-	-	279	27	n/a
<b>Pakistan</b>	4,077	-	-	-	-	-	-	-	n/a
<b>Türkiye</b>	2,714	-	-	-	-	-	-	-	n/a
<b>Egypt</b>	2,498	-	-	-	-	-	-	-	n/a
<b>Other</b>	11,940	-	-	-	-	-	1,079	318	n/a

Source: MoMA, *Factsheet - December 2023*, available at: <https://bit.ly/3zjCd8o>.

<sup>1</sup> MoMA, *Statistics*, available at: <https://bit.ly/3OFIP83>.

<sup>2</sup> 57,891 first time applicants, 6,321 subsequent applications, MoMA, *Factsheet - December 2023*, available at: <https://bit.ly/3zjCd8o>.

<sup>3</sup> There are also 9,938 Acts of Interruption (implicit withdrawal) and 946 explicit withdrawals and archived applications, MoMA, *Factsheet - December 2023*, *idib*.

### Applications and granting of protection status at first instance: rates for year

	Overall rejection rate	In merit rejection rate	Overall protection rate	In merit protection rate	Refugee rate	Subsidiary protection rate	Humanitarian protection rate
<b>Total</b>	39.80%	23.34%	-	76.65%	74.84 %	1.81%	abolished by Article 20 L. 4825/2021

### Breakdown by countries of origin of the total numbers

<b>Palestine</b>	-	-	99.18%	-	-	-	n/a
<b>Yemen</b>	-	-	97.94%	-	-	-	n/a
<b>Sudan</b>	-	-	95.73%	-	-	-	n/a
<b>Ukraine</b>	-	-	93.17%	-	-	-	n/a
<b>Iraq</b>	-	-	92.01%	-	-	-	n/a
<b>Afghanistan</b>	-	-	86.22%	-	-	-	n/a
<b>Eritrea</b>	-	-	79.69%	-	-	-	n/a
<b>Syria</b>	-	-	63.64%	-	-	-	n/a
<b>Türkiye</b>	-	-	60.90%	-	-	-	n/a
<b>Cameroon</b>	-	-	52.39%	-	-	-	n/a
<b>Pakistan</b>	-	-	1.43%	-	-	-	n/a
<b>Egypt</b>	-	-	0.91%	-	-	-	n/a

Source of the percentages: MoMA, *Factsheet - December 2023*, available at: <https://bit.ly/3zjCd8o>.

### Gender/age breakdown of the total number of applicants: (2023)

	Men	Women
<b>Number</b>	47,406	16,806
<b>Percentage</b>	73.82%	26.17%

	Adults	Children	
		Accompanied	Unaccompanied
<b>Number</b>	49,581	11,694	2,937
<b>Percentage</b>	77.21%	18.21%	4.57%

Source: MoMA, *Factsheet - December 2023*, available at: <https://bit.ly/3zjCd8o>.

Note: The gender breakdown (Men/Women) applies to all applicants, not only adults.

### Comparison between first instance and appeal decision rates: 2023

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not concern the same applicants.

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	32,529	100%	7,605	100%
Positive decisions	24,936	76.65%	886	11.65%
• <i>Refugee status</i>	24,345	74.84%	655	8.61%
• <i>Subsidiary protection</i>	591	1.81%	222	2.91%
• <i>Other<sup>4</sup></i>	-	-	9	0.11%
Negative decisions	7,593	23.34%	6,719	88.34%

Source: MoMA, *Factsheet - December 2023*, available at: <https://bit.ly/3zjCd8o>.

\* Numbers above refer to in merits Decisions in the case of first instance decisions. In the case of Appeals, given no relevant breakdown is provided, data concerns the total number and outcome of appeals against both first instance in-merit negative decisions and against first instance inadmissibility decisions.

<sup>4</sup> Other positive Decisions on second instance refers to second instance Decisions rejecting the Appeal submitted against a first instance Decision not granting refugee protections but finding that the applicant should be recognized as a beneficiary of subsidiary protection, by which the status of the beneficiary of subsidiary protection is maintained.

## Overview of the legal framework

### Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>L. 4939/2022 “Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons”</p> <p><i>Amended by:</i>                      L. 4960/2022 “National Guardianship System and accommodation framework of unaccompanied minors and other provision regarding the Ministry of Migration and Asylum”.</p> <p>L. 5027/2023 “Innovation System in the Public Sector - Provisions of the General Secretariat for Human Resources in the Public Sector - Arrangements for the operation of local and regional authorities and decentralised administrations and for wellbeing”</p> <p>L. 5043/2023 “Arrangements with regards to Local and Regional Authorities -Provisions on the wellbeing of companion animals – Provisions on the human resources of the public sector - Other provisions of the Ministry of Interior</p> <p>L. 5078/2023 “Reform of occupational insurance, rationalisation of insurance legislation, pension arrangements, system of appointment and recruitment of teachers of the Public Employment Service and other provisions”</p>	<p>Νόμος 4939/2022 «Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών»</p> <p><i>Τροποποίηση από:</i>                      Νόμος 4960/2022 «Εθνικό Σύστημα Επιτροπείας και Πλαίσιο Φιλοξενίας Ασυνόδευτων Ανηλίκων και άλλες διατάξεις αρμοδιότητας του Υπουργείου Μετανάστευσης και Ασύλου».</p> <p>Νόμος 5027/2023 «Σύστημα Καινοτομίας στον δημόσιο τομέα - Ρυθμίσεις Γενικής Γραμματείας Ανθρωπίνου Δυναμικού Δημοσίου Τομέα - Ρυθμίσεις για τη λειτουργία των Ο.Τ.Α. α' και β' βαθμού και των αποκεντρωμένων διοικήσεων και για την ευζωία»</p> <p>Νόμος 5043/2023 «Ρυθμίσεις σχετικά με τους Οργανισμούς Τοπικής Αυτοδιοίκησης α' και β' βαθμού - Διατάξεις για την ευζωία των ζώων συντροφιάς -Διατάξεις για το ανθρώπινο δυναμικό του δημοσίου τομέα - Λοιπές ρυθμίσεις του Υπουργείου Εσωτερικών»</p> <p>Νόμος 5078/2023 «Αναμόρφωση επαγγελματικής ασφάλισης, εξορθολογισμός ασφαλιστικής νομοθεσίας, συνταξιοδοτικές ρυθμίσεις, σύστημα διορισμού και προσλήψεων των εκπαιδευτικών της Δημόσιας Υπηρεσίας Απασχόλησης και λοιπές διατάξεις»</p>	<p>Asylum Code</p>	<p><a href="https://bit.ly/3Ek1hfp">https://bit.ly/3Ek1hfp</a> (GR)</p> <p><a href="https://bit.ly/45oXn0s">https://bit.ly/45oXn0s</a> (GR)</p> <p><a href="https://tinyurl.com/mr2scfpu">https://tinyurl.com/mr2scfpu</a> (GR)</p> <p><a href="https://tinyurl.com/yvysy3zwd">https://tinyurl.com/yvysy3zwd</a> (GR)</p> <p><a href="https://tinyurl.com/bdd7zwk9">https://tinyurl.com/bdd7zwk9</a> (GR)</p>
<p>Law 4825/2021 “Reform of deportation and return procedures of third country nationals, attracting investors</p>	<p>Νόμος 4825/2021 «Αναμόρφωση διαδικασιών απελάσεων και επιστροφών πολιτών τρίτων χωρών, προσέλκυση</p>	<p>L 4825/2021</p>	<p><a href="https://bit.ly/3Lc8bEz">https://bit.ly/3Lc8bEz</a> (GR)</p>

and digital nomads, issues of residence permits and procedures for granting international protection, provisions within the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection and other emergency provisions”, Gov. Gazette A' 157/4-9-2021	επενδυτών και ψηφιακών νομάδων, ζητήματα αδειών διαμονής και διαδικασιών χορήγησης διεθνούς προστασίας, διατάξεις αρμοδιότητας Υπουργείου Μετανάστευσης και Ασύλου και Υπουργείου Προστασίας του Πολίτη και άλλες επείγουσες διατάξεις», ΦΕΚ Α' 157/4-9-2021		
Law 4686/2020 “Improvement of the migration legislation, amendment of L. 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other provisions” Gov. Gazette A' 96 /12-5-2020	Νόμος 4686/2020 «Βελτίωση της μεταναστευτικής νομοθεσίας, τροποποίηση διατάξεων των νόμων 4636/2019 (Α' 169), 4375/2016 (Α' 51), 4251/2014 (Α' 80) και άλλες διατάξεις». ΦΕΚ Α' 96 /12-5-2020	L 4686/2020	<a href="https://bit.ly/2LGoOvI">https://bit.ly/2LGoOvI</a> (GR)
Law 4636/2019 “on international protection and other provisions” Gazette 169/A/1-11-2019	Νόμος 4636/2019 «Περί Διεθνούς Προστασίας και άλλες διατάξεις» ΦΕΚ 169/A/1-11-2019	IPA	<a href="https://bit.ly/2Q9VnFk">https://bit.ly/2Q9VnFk</a> (GR)
Law 4375/2016 “Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council ‘on common procedures for granting and withdrawing international protection (recast)’ (L 180/29.6.2013), provisions on employment of beneficiaries of international protection” and other provisions. Gazette 51/A/3-4-2016	Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις. ΦΕΚ 51/A/3-4-2016	L 4375/2016 (Asylum Act)	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)
Law 3907/2011 “on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions. Gazette 7/A/26-01-2011	Νόμος 3907/2011 «1δρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις» ΦΕΚ 7/A/26-01-2011	L 3907/2011	<a href="http://bit.ly/1KH9dV">http://bit.ly/1KH9dV</a> (EN)
<i>Amended by:</i>	<i>Τροποποίηση από:</i>		<a href="https://bit.ly/3uMO9Zo">https://bit.ly/3uMO9Zo</a> (GR)

<p>Presidential Decree 133/2013, Gazette 198/A/25-09-2013</p> <p>Law 4058/2012, Gazette 63/A/22-03-2012</p> <p>Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/A/25-09-2013</p> <p>Νόμος 4058/2012, ΦΕΚ 63/A/22-03-2012</p> <p>Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 133/2013</p> <p>L 4058/2012</p> <p>L 4375/2016</p>	<p><a href="https://bit.ly/3onVTPe">https://bit.ly/3onVTPe</a> (GR)</p> <p><a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN)</p> <p><a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)</p>
<p>Law 4251/2014 “Immigration and Social Integration Code and other provisions” Gazette 80/A/01-04-2014</p> <p><i>Amended by:</i> Law 4332/2015, Gazette 76/A/09-07-2015</p> <p><i>Amended by:</i> Law 4540/2018, Gazette 91/A/22-5-2018 <i>Reappealed by:</i> Law 5038/2023, (new) “Immigration Code”, Gazette 81/A/01-04-2023, in force since 31 March 2024</p>	<p>Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014</p> <p><i>Τροπ.:</i> Νόμος 4332/2015, ΦΕΚ 76/A/09-07-2015</p> <p><i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018 <i>Καταργήθηκε από:</i> Νόμος 5038/2023, (νέος) “Κώδικας Μετανάστευσης”, ΦΕΚ 81/A/01-04-2023, σε ισχύ από τις 31 Μαρτίου 2024</p>	<p>Immigration Code</p> <p>L 4332/2015</p> <p>L. 5038/2023</p>	<p><a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a> (GR)</p> <p><a href="https://bit.ly/4b49ZMg">https://bit.ly/4b49ZMg</a> (GR)</p> <p><a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR) <a href="https://tinyurl.com/427x96b9">https://tinyurl.com/427x96b9</a> (GR)</p>
<p>Law 3386/2005 “Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory”</p> <p><i>Abolished by:</i> Law 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1) - (3)</p> <p><i>Amended by:</i> Law 4332/2015</p>	<p>Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»</p> <p><i>Καταργήθηκε από:</i> Νόμος 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3</p> <p><i>Τροπ.:</i> Νόμος 4332/2015</p>	<p>L 3386/2005</p>	<p><a href="http://bit.ly/1Pps1eO">http://bit.ly/1Pps1eO</a> (EN)</p> <p><a href="https://tinyurl.com/47kzy3dn">https://tinyurl.com/47kzy3dn</a> (GR)</p>
<p>Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006</p> <p><i>Amended by:</i> PD 167/2008, PD 113/2013</p>	<p>Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/A/13-7-2006</p> <p><i>Τροπ.:</i> ΠΔ 167/2008, ΠΔ 113/2013</p>	<p>PD 131/2006 (Family Reunification Decree)</p>	<p><a href="http://bit.ly/2nHCPOu">http://bit.ly/2nHCPOu</a> (GR)</p>

<p>Presidential Decree 80/2006 “Provision of temporary protection in cases of mass influx of displaced persons” Gazette 82/A/14-4-2006</p> <p><i>Annuled by: art. 148(b) Asylum Code.</i></p>	<p>Προεδρικό Διάταγμα 80/2006 «Παροχή προσωρινής προστασίας σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών», ΦΕΚ 82/A/14-4-2006</p> <p><i>Κατάργηση: άρθρο 148(β) Ν. 4939/2022</i></p>		<p><a href="https://bit.ly/3lgnNqM">https://bit.ly/3lgnNqM</a> (GR)</p>
<p>Presidential Decree <b>106/2020</b> “Organisation of the Ministry of Migration and Asylum”</p> <p><i>Amended by: PD 77/2022 “Establishment of Closed Controlled Centres (CCAC) and abolition of Reception and Identification Centres” – Amendment of PD 106/202 “Organisation of the Ministry of Migration and Asylum” (A’ 255)</i></p>	<p>Προεδρικό Διάταγμα 106/2020 «Οργανισμός Υπουργείου Μετανάστευσης και Ασύλου»</p> <p><i>Τροπ: ΠΔ 77/2022 «Ίδρυση Κλειστών Ελεγχόμενων Δομών (Κ.Ε.Δ.) και κατάργηση Κέντρων Υποδοχής και Ταυτοποίησης (Κ.Υ.Τ.) - Τροποποίηση του π.δ. 106/2020 «Οργανισμός Υπουργείου Μετανάστευσης και Ασύλου» (Α’ 255)»</i></p>		<p><a href="https://tinyurl.com/mj7vf7j8">https://tinyurl.com/mj7vf7j8</a> (GR)</p> <p><a href="https://tinyurl.com/vnpxka d3">https://tinyurl.com/vnpxka d3</a> (GR)</p>

#### Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>Joint Ministerial Decision no 734214. Designation of third countries as safe and establishment of national list pursuant to Article 91 L. 4939/2022 (A’ 111) Gazette B’ 6250/12-02-2022</p> <p>Repeated and replaced by: JMD 538595/15.12.2023 (Gazette B’ 7063).</p>	<p>Κοινή Υπουργική Απόφαση αριθμ. οικ. 734214 (ΦΕΚ Β’ – 6250/12-02-2022) Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου κατά τα οριζόμενα στο άρθρο 91 του ν. 4939/2022 (Α’ 111)</p> <p>Κατάργηση και αντικατάσταση με ΚΥΑ 538595/15.12.2023 (ΦΕΚ Β’ 7063)</p>		<p><a href="https://bit.ly/3xC0i6s">https://bit.ly/3xC0i6s</a> (GR)</p> <p><a href="https://tinyurl.com/26885p4n">https://tinyurl.com/26885p4n</a> (GR)</p>
<p>Circular 504912/2022, Registration of International Protection Applications by RAO/AAU of the Asylum Service, 31 August 2022.</p>	<p>Εγκύκλιος 504912/2022, Καταγραφή αιτημάτων διεθνούς προστασίας από τα ΠΓΑ/ΑΚΑ της Υπηρεσίας Ασύλου, 31 Αυγούστου 2022</p>		<p><a href="https://bit.ly/3lQuTdR">https://bit.ly/3lQuTdR</a> (GR)</p>
<p>Decision of the Minister of Asylum and Migration no 131035/4.3.2022 “Application of temporary protection of PD 80/2006 due to mass influx of displaced persons from Ukraine”</p>	<p>Απόφαση Υπουργού Μετανάστευσης και Ασύλου υπ’ αρ. 131035/4.3.2022 «Εφαρμογή προσωρινής προστασίας του π.δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία» (ΑΔΑ: ΡΠ1146ΜΔΨΟ-ΩΙ4).</p>		<p><a href="https://bit.ly/3KnXstg">https://bit.ly/3KnXstg</a> (GR)</p>

Decision of the Minister of Migration and Asylum no 172172/2022 (Gazette B' 1462/28.03.2022), concerning the procedure of administering the temporary protection residence permit	Απόφαση Υπουργού Μετανάστευσης και Ασύλου υπ' αρ. 172172/2022 (ΦΕΚ Β' 1462/28.03.2022 ) «Διαδικασία χορήγησης Άδειας Διαμονής Προσωρινής Προστασίας στους δικαιούχους προσωρινής προστασίας»		<a href="https://tinyurl.com/4jxhyucz">https://tinyurl.com/4jxhyucz</a> (GR)
Joint Ministerial Decision no 78391. Establishment of a national List of countries of origin considered as safe pursuant to para. 5 Article 87 L. 4636/2019 (A' 169) Gazette B' 667/15-02-2022	Κοινή Υπουργική Απόφαση αριθμ. οικ. 78391 (ΦΕΚ Β' – 667/ 15-02-2022) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).		<a href="https://bit.ly/41aalG">https://bit.ly/41aalG</a> (GR)
Joint Ministerial Decision no 788502 Provision of legal aid to applicants for international protection Gazette B' 42/11-01-2022  Replaced by: JMD 788502/2023 (Gazette B' 42/11.01.2023)	Κοινή Υπουργική Απόφαση αριθμ. οικ. 788502 (ΦΕΚ Β' – 42/ 11-01-2022) Παροχή Νομικής Συνδρομής σε Αιτούντες Διεθνή Προστασία  <i>Αντικατάσταση με:</i> ΚΥΑ 788502/2023 (ΦΕΚ Β' 42/11.01.2023)		<a href="https://bit.ly/3lV3De8">https://bit.ly/3lV3De8</a> (GR)  <a href="https://tinyurl.com/zpf4s8t5">https://tinyurl.com/zpf4s8t5</a> (GR)
Joint Ministerial Decision No 472687. Determination of the procedure for entering of payments in the budget of the Ministry of Migration and Asylum in line with the revenues ΑΛΕ 1450114001 “Fees of any, after the first, subsequent application for international protection” and relevant issues Gazette B/6246 / 27-12-2021	Κοινή Υπουργική Απόφαση αριθμ. οικ. 472687 (ΦΕΚ Β' – 6246 / 27-12-2021) Καθορισμός διαδικασίας εγγραφής πιστώσεων στον τακτικό π/υ του Υπουργείου Μετανάστευσης και Ασύλου κατ' αντιστοιχία εισπραττόμενων εσόδων στον ΑΛΕ 1450114001 “Παράβολα κάθε μεταγενέστερης της πρώτης αίτησης από αιτούντα διεθνούς προστασίας” και λοιπά συναφή θέματα.		<a href="https://bit.ly/3u6MCj7">https://bit.ly/3u6MCj7</a> (GR)
Decision of the Secretary General for the Reception of Asylum Seekers 25.0/118832. General Regulation for the Operation of Closed Controlled Facilities on the islands Gazette B/3191/20-7-2021  <i>Replaced by:</i> Decision of the Secretary General for the Reception of Asylum Seekers 553695/2023 “General Regulation for the Operation of Closed Controlled Facilities (Gazette B/7533/31.12.2023)	Απόφαση 25.0/118832 Γενικός Κανονισμός Λειτουργίας Κλειστών Ελεγχόμενων Δομών Νήσων.  <i>Αντικατάσταση με:</i> Απόφαση 553695/2023 «Γενικός Κανονισμός Λειτουργίας Κλειστών Ελεγχόμενων Δομών».		<a href="https://bit.ly/389fkHi">https://bit.ly/389fkHi</a> (GR)  <a href="https://tinyurl.com/4cw6fcxe">https://tinyurl.com/4cw6fcxe</a> (GR)
Joint Ministerial Decision no 42799 Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (A' 169)	Κοινή Υπουργική Απόφαση Αριθμ. 42799 (ΦΕΚ Β' 2425/07-06-2021)		<a href="https://bit.ly/3uLlhfh">https://bit.ly/3uLlhfh</a> (GR)



<p>Gazette B' 2425/07-06-2021</p> <p><i>Amended by Decision no 458568 "Amendment of no 42799/03.06.2021 Joint Ministerial Decision of the Minister of Foreign Affairs and the Minister of Migration and Asylum "Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (a' 169)"</i> Gazette B/5949/16-12-2021)</p> <p><i>Amended and replaced by: JMD 527235/2023 (Gazette B' 6844/05.12.2023) "Establishment of a National List of countries of origin designated as safe according to par. 5 of article 92 of L. 4939/2022"</i></p>	<p>Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου, κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169).</p> <p><i>Τροπ: Απόφαση υπ' αριθμ 458568 «Τροποποίηση της υπ' αρ. 42799/03.06.2021 κοινής απόφασης των Υπουργών Εξωτερικών και Μετανάστευσης και Ασύλου «Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169)»</i></p> <p><i>Τροπ. και αντικατάσταση με: ΚΥΑ 527235/2023 «Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς σύμφωνα με την παρ. 5 του άρθρου 92 του ν. 4939/2022»</i></p>		<p><a href="https://bit.ly/3uISduV">https://bit.ly/3uISduV</a> (GR)</p> <p><a href="https://tinyurl.com/be293dp8">https://tinyurl.com/be293dp8</a> (GR)</p>
<p>JMD 513542/2022 (Gazette B' 4763/12.09.2022) "Procedure of administering residence permits to beneficiaries of international protection"</p>	<p>ΚΥΑ 513542/2022 (ΦΕΚ Β' 4763/12.09.2022) «Διαδικασία χορήγησης Άδειας Διαμονής Ενιαίου Τύπου στους δικαιούχους διεθνούς προστασίας»</p>		<p><a href="https://tinyurl.com/zz5p9aha">https://tinyurl.com/zz5p9aha</a> (GR)</p>
<p>Joint Ministerial Decision no 788. Establishment of a national List of countries of origin considered as safe pursuant to para. 5 Article 87 L. 4636/2019 (Α' 169) Gazette B' 317/29-01-2021</p>	<p>Κοινή Υπουργική Απόφαση Αριθμ. 778 (ΦΕΚ Β' 317/29-01-2021). Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).</p>		<p><a href="https://bit.ly/3iRHuc0">https://bit.ly/3iRHuc0</a> (GR)</p>
<p>Joint Ministerial Decision No 22066 on the establishment of the International Protection Applicant Cards Gazette B/4699/23-10-2020</p>	<p>Κοινή Υπουργική Απόφαση Αριθμ. 22066 (ΦΕΚ Β' 4699/23-10-2020) Καθορισμός του τύπου του Δελτίου Αιτούντος Διεθνή Προστασία.</p>	<p>Establishment of the international protection applicant cards JMD</p>	<p><a href="https://bit.ly/3o4A8DX">https://bit.ly/3o4A8DX</a> (GR)</p>
<p>Joint Ministerial Decision 23/13532/2020 "General Regulation for the Operation of Temporary Reception and Accommodation Facilities for third countries nationals or stateless persons, operating under the care of the Reception and Identification Service, Gazette 5272/B/30.11.2020</p>	<p>Υπουργική Απόφαση 23/13532/2020 (ΦΕΚ 5272/Β'/30.11.2020) "Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης"</p>	<p>Regulation for the operation of temporary reception and accommodation JMD</p>	<p><a href="https://bit.ly/3w8umDM">https://bit.ly/3w8umDM</a> (GR)</p>

Decision No 3063 on the Register of Greek and foreigner NGOs and Register for the members of NGOs Gazette B/1382/14.4.2020	Απόφαση Αριθμ. 3063 (ΦΕΚ Β'-1382-14.04.2020) Καθορισμός λειτουργίας του «Μητρώου Ελληνικών και Ξένων Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)» και του «Μητρώου Μελών Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)», που δραστηριοποιούνται σε θέματα διεθνούς προστασίας, μετανάστευσης και κοινωνικής ένταξης εντός της Ελληνικής Επικράτειας.	NGO's Register Decision	<a href="https://bit.ly/3y3YNNk">https://bit.ly/3y3YNNk</a> (GR)
Decision No 13221 on the conditions of "ESTIA II" program for housing of international protection applicants, Gazette 1223/B/9.4.2020  <i>Amended by</i> Decision No 21260, Gazette 3093/B/24.07.2020  <i>Amended by</i> Decision No 14320, Gazette B/5269/30.11.2020  <i>Amended by</i> Decision No 270, Gazette B/451/15.2.2021	Υπουργική Απόφαση Αριθμ. οικ. 13221 (ΦΕΚ 1223/B'/09.04.2020) Καθορισμός πλαισίου προδιαγραφών του προγράμματος «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία  <i>Τροπ.:</i> Υπουργική Απόφαση Αριθμ.21260 (ΦΕΚ 3093/B/24.07.2020)  <i>Τροπ.:</i> Υπουργική Απόφαση Αριθμ. οικ: 14320 (ΦΕΚ Β 5269/30.11.2020).  <i>Τροπ:</i> Κοινή Υπουργική Απόφαση Αριθμ. 270 (ΦΕΚ Β 451/5.2.2021)	Conditions for housing of international protection applicants JMD	<a href="https://bit.ly/2R0LjkZ">https://bit.ly/2R0LjkZ</a> (GR)  <a href="https://bit.ly/3y0oGOB">https://bit.ly/3y0oGOB</a> (GR)  <a href="https://bit.ly/3ezL49e">https://bit.ly/3ezL49e</a> (GR)
Decision No 13348 on the Terms and conditions for the provision of material reception conditions under ESTIA II program for housing of international protection applicants Gazette B/1199/7.4.2020	Απόφαση Αριθμ. οικ. 13348 (ΦΕΚ Β'-1199-07.04.2020) Όροι παροχής υλικών συνθηκών υποδοχής για το πρόγραμμα «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία	Material reception conditions under ESTIA II JDM	<a href="https://bit.ly/3fnltia">https://bit.ly/3fnltia</a> (GR)
Decision No 3686 on the provision of legal aid to applicants for international protection Gazette B/1009/24.3.2020  Decision No 3449 on the provision of legal aid to applicants for international protection Gazette B 1482/13.04.2021	Απόφαση αριθμ. 3686 (ΦΕΚ Β'-1009-24.03.2020) Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία  Απόφαση Αριθμ. 3449 (ΦΕΚ Β 1482/13.04.2021). Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία	Legal Aid JMD	<a href="https://bit.ly/3uLVnNm">https://bit.ly/3uLVnNm</a> (GR)  <a href="https://bit.ly/2RSHZbw">https://bit.ly/2RSHZbw</a> (GR)

Decision No 2945 on the Establishment of Temporary Accommodation Facilities for third country nationals and stateless persons, who have applied for international protection Gazette B/2945/24.3.2020	Υπουργική Απόφαση αριθμ.2945 (ΦΕΚ Β'-1016-24.03.2020) Σύσταση Δομών Προσωρινής Υποδοχής Πολιτών Τρίτων Χωρών ή ανιθαγενών, οι οποίοι έχουν αιτηθεί διεθνή προστασία.	Establishment of Temporary Accommodation Facilities Decision	<a href="https://bit.ly/2RWInH1">https://bit.ly/2RWInH1</a> (GR)
Decision No Δ1α/ΓΠ.οικ. Δ1α/Γ.Π.οικ. 80417/2021 (Gazette B' 6214) Urgent measures for the protection of public health against the spread of SARS-COV-2 across the country valid from 24 December 2021 to 3 January 2022 Gazette B' 6214/23.12.2021	Απόφαση Αριθμ. Υ.Α. Δ1α/Γ.Π.οικ. 80417/2021 Έκτακτα μέτρα προστασίας της δημόσιας υγείας από τον κίνδυνο περαιτέρω διασποράς του κορονοϊού SARS-COV-2 στο σύνολο της Επικράτειας για το διάστημα από την Παρασκευή, 24 Δεκεμβρίου 2021 και ώρα 06:00 έως και τη Δευτέρα, 3 Ιανουαρίου 2022 και ώρα 06:00. (B' 6214/23.12.2021).	Measures against COVID 19 across the country	<a href="https://bit.ly/3iVBFdy">https://bit.ly/3iVBFdy</a> (GR)
Decision No 717/2020 on the Access to healthcare services for applicants for international protection– P.A.A.Y.P.A. issuance Gazette B/717/31.1.2020	Υπουργική Απόφαση αριθμ. 717 (ΦΕΚ Β'-199-31.01.2020) Ρυθμίσεις για τη διασφάλιση της πρόσβασης των αιτούντων διεθνούς προστασίας στις υπηρεσίες υγείας, την ιατροφαρμακευτική περίθαλψη, την κοινωνική ασφάλιση και την αγορά εργασίας – Έκδοση Π.Α.Α.Υ.Π.Α.	Access to healthcare services Decision	<a href="https://bit.ly/2yjsx8Oz">https://bit.ly/2yjsx8Oz</a> (GR)
Decision No 1333/2019 on the Application of the provisions of Article 90 paras.3 and 5 of L 4636/2020 Gazette B/4892/31.12.2019	Απόφαση αριθμ. 1333 (ΦΕΚ Β'-4892-31.12.2019) Εφαρμογή των διατάξεων των παραγράφων 3 και 5 του άρθρου 90 του ν. 4636/2019 (ΦΕΚ 169 Α').	Fast-Track Border Procedure JMD	<a href="https://bit.ly/3cPAojw">https://bit.ly/3cPAojw</a> (GR)
Decision No 1302(2)/2019 on the List of safe countries of origin Gazette B/4907/31.12.2019	Απόφαση αριθμ. 1302 (2) (ΦΕΚ Β 4907-31-12-2019) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς σύμφωνα με το άρθρο 87 παρ. 5 του ν.4636/2019.  Κοινή Υπουργική Απόφαση Αριθμ. 778/2021 (ΦΕΚ 317/Β/29-1-2021). Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).	List of safe countries of origin Decision	<a href="https://bit.ly/2AMPjgr">https://bit.ly/2AMPjgr</a> (GR)  <a href="https://bit.ly/3eCpwZL">https://bit.ly/3eCpwZL</a> (GR)
Decision No 1140/2019 of the Minister of Migration Policy on the restriction of movement of applicants for international protection Gazette B/ B/4736/20.12.2019	Υπουργική Απόφαση αριθμ. 1140 (ΦΕΚ Β'-4736-20.12.2019) Περιορισμός Κυκλοφορίας των Αιτούντων Διεθνή Προστασία.	Restriction of Movement Decision	<a href="https://bit.ly/2LG02eG">https://bit.ly/2LG02eG</a> (GR)

<p>Joint Ministerial Decision Δ11/οικ.28303/1153 Definition of necessary formal and material conditions to be fulfilled for the selection of professional guardians, obstacles, establishment of number of unaccompanied minors by professional guardian, technical specifications on training and education, as well as regular evaluation, types, conditions, content of contracts, remuneration and necessary details Gazette B/2558/27-6-2019</p>	<p>Κοινή Υπουργική Απόφαση Δ11/οικ.28303/1153 Καθορισμός απαιτούμενων τυπικών και ουσιαστικών προσόντων που πρέπει να πληρούνται για την επιλογή ενός προσώπου ως επαγγελματία επιτρόπου, τα κωλύματα, καθορισμός αριθμού ασυνόδευτων ανηλίκων ανά επαγγελματία επίτροπο, τεχνικές λεπτομέρειες εκπαίδευσης, διαρκούς επιμόρφωσής τους, καθώς και της τακτικής αξιολόγησης τους, είδος, όροι, περιεχόμενο της σύμβασης, αμοιβή τους και κάθε αναγκαία λεπτομέρεια, ΦΕΚ Β/2558/27.6.2019</p>	<p>Guardianship JMD</p>	<p><a href="https://bit.ly/2qL7FJr">https://bit.ly/2qL7FJr</a> (GR)</p>
<p>Decision οικ. 13411/2019 of the Minister of Migration Policy on restriction of movement of applicants for international protection Gazette B/2399/19.06.2019</p>	<p>Απόφαση αριθμ. οικ. 13411/2019 του Υπουργού Μεταναστευτικής Πολιτικής: Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία, ΦΕΚ Β/2399/19.06.2019</p>	<p>Restriction of Movement Decision</p>	<p><a href="https://bit.ly/32GYtU5">https://bit.ly/32GYtU5</a> (GR)</p>
<p>Decision οικ. 868/2018 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/201/30.01.2018</p>	<p>Απόφαση αριθμ. οικ. 868/2018 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ Β/201/30.01.2018</p>	<p>Asylum Seeker Card Decision</p>	<p><a href="http://bit.ly/2DEDtka">http://bit.ly/2DEDtka</a> (GR)</p>
<p>Joint Ministerial Decision οικ. 13257/2016 on the implementation of the special border procedure (Article 60(4) L 4375/2016) Gazette B/3455/26.10.2016</p>	<p>Κοινή Υπουργική Απόφαση οικ. 13257/2016: Εφαρμογή των διατάξεων της παραγράφου 4 του άρθρου 60 του Ν. 4375/2016 (Α' 51), ΦΕΚ Β/3455/26.10.2016</p>	<p>Fast-Track Border Procedure JMD</p>	<p><a href="http://bit.ly/2makUeC">http://bit.ly/2makUeC</a> (GR)</p>
<p>Joint Ministerial Decision οικ. 12205 on the provision of legal aid to applicants for international protection Gazette B/2864/9-9-2016</p>	<p>Κοινή Υπουργική Απόφαση οικ. 12205: Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία, ΦΕΚ Β/2864/9-9-2016</p>	<p>Legal Aid JMD</p>	<p><a href="http://bit.ly/2kPSjzE">http://bit.ly/2kPSjzE</a> (GR)</p>
<p>Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016</p> <p><i>Amended and replaced by Ministerial Decision 9889/2020 Gazette B/3390/13-08-2020</i></p>	<p>Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ Β/335/16-2-2016</p> <p>Τροποποιήθηκε και αντικαταστάθηκε από την Υπουργική Απόφαση Αριθμ. 9889/2020 (ΦΕΚ Β'-3390-13.08.2020) "Τροποποίηση και αντικατάσταση της υπ' αρ. 1982/15-02-2016 απόφασης «Διαπίστωση Ανηλικότητας των αιτούντων διεθνή προστασία» (Β' 335)"</p>	<p>Age Assessment JMD/ Decision</p>	<p><a href="http://bit.ly/2lc8mDX">http://bit.ly/2lc8mDX</a> (GR)</p> <p><a href="https://bit.ly/3vY5WNn">https://bit.ly/3vY5WNn</a> (GR)</p>

<p>Joint Ministerial Decision οικ. 10566 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/3223/2-12-2014</p> <p>Joint Ministerial Decision No 10302 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/2036/30-05-2020</p>	<p>Κοινή Υπουργική Απόφαση οικ. 10566 Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία, ΦΕΚ Β/3223/2-12-2014</p> <p>Υπουργική Απόφαση Αριθμ. 10302 (ΦΕΚ Β' 2036/30-05-2020). Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους καθεστώτος του πρόσφυγα, σε δικαιούχους επικουρικής προστασίας καθώς και σε αιτούντες διεθνή προστασία.</p>	<p>Travel Documents JMD</p>	<p><a href="http://bit.ly/2mfwqXA">http://bit.ly/2mfwqXA</a> (GR)</p> <p><a href="https://bit.ly/2P71hc8">https://bit.ly/2P71hc8</a> (GR)</p>
<p>Hellenic Police Circular 1604/17/681730/3-4-2017 on participation of applicants for international protection in voluntary repatriation programmes of the International Organisation for Migration (IOM)</p>	<p>Εγκύκλιος Ελληνικής Αστυνομίας 1604/17/681730/3-4-2017 Συμμετοχή αλλοδαπών υπηκόων αιτούντων τη χορήγηση καθεστώτος διεθνούς προστασίας στα προγράμματα οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)</p>		<p><a href="http://bit.ly/2E8Mlmr">http://bit.ly/2E8Mlmr</a> (GR)</p>

## Overview of main changes since the previous report update

The report was previously updated in **June 2023**.

### International Protection

- ❖ **Key asylum statistics:** As per [data](#) published by the Greek Ministry of Migration and Asylum, The Asylum Service received 57,891 first time asylum applications and 6,321 subsequent asylum applications in 2023 –compared to 29,097 first time and 8,265 subsequent applications in 2022, respectively– mainly from applicants from Syria (21.8%), Afghanistan (14.8%), Palestine (10.5%), Iraq (10.1%) and Pakistan (6.3%). The recognition rate on the merits at first instance was 76.7% (compared to 62.3% in 2022), with 24,345 applicants receiving refugee and 591 subsidiary protections respectively, thus highlighting an ongoing prevalence of people in need of international protection amongst those arriving in Greece. However, as in previous years, a significant number of applicants were not provided with access to an in merits examination and their applications were examined and rejected under the safe third country concept, following the issuance of the Joint Ministerial Decision designating Türkiye as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan, Bangladesh. A total of 32,730 applications, of which 29,885 at first and 2,845 at second instance, were pending at the end of 2023, marking a close to 50% general increase compared to 2022 (22,170 pending applications, 17,249 of which at first instance and 4,921 at second), albeit a decrease in the backlog of pending cases at second instance.

### Asylum procedure

- ❖ **Number of arrivals:** In 2023, a total of 48,721 refugees and migrants arrived in Greece by sea (41,561) and land (7,160) according to data published by [UNHCR](#), marking a 159% increase compared to 2022 (18,780 arrivals). During the same period, those that were reported as having gone dead and missing (799) more than doubled compared to 2022 (343), largely on account of the devastating Pylos shipwreck, which adds up to what the [EU Ombudsman](#) has noted as a “*recent history of concerns about the Greek authorities’ compliance with fundamental rights obligations*”. The majority of those arriving was from Syria (31.3%), Afghanistan (20%), Palestine (16.3%), Somalia (6.5%) and Eritrea (4.2%). As to their [demographics](#), of those arriving by sea, close to one in four (24%) were children, 17% of whom were recorded as unaccompanied upon arrival, while 18.2% were women and 56.9% men, with the majority of those arriving from Afghanistan, arriving in family groups, as in previous years. The registered number of entries in 2023 may however under-represent the number of people actually attempting to access the Greek territory, given the number of alleged pushbacks, which continued to be reported as a systematic practice during the year.
- ❖ **Push-back practices:** Allegations of pushbacks have continued being reported in 2023, *inter alia* prompting UN experts, including the Special Rapporteur on the human rights of migrants to once more “*urge Greece to take steps to ensure a transparent and impartial investigation into allegations of violations of the principles of non-refoulement and non-discrimination and of the right to life involving Greek law enforcement personnel, including the Hellenic Coast Guard, and border violence*”. Between the start of the year and early 2024, the ECtHR has also granted an additional 22 *interim measures* in cases represented by GCR, with the majority of those alleging that they have been pushed back to Türkiye. Following a first controversial investigation on alleged pushbacks by the National Transparency Agency (‘NTA’) in 2022, which has been widely criticised on account of methodological gaps and omissions, no further such investigations or recommendations have been made public by the NTA in 2023. By contrast, following similar recommendations made in 2022, on account of “*strong indications about persisting fundamental rights violations of a serious nature*”, in **June 2023** the FRONTEX fundamental rights officer once more recommended the suspension of the Agency’s operations in Greece, in accordance with

article 46 of the EBCG Regulation. Human rights organisations and defenders bringing to light and/or supporting pushback victims have continued facing defamation, intimidation and criminalisation, including through prosecution on criminal charges. As highlighted by the UN Special Rapporteur on the situation of Human Rights Defenders in her [March 2023 report](#), “*human rights defenders promoting and protecting the rights of migrants, asylum-seekers and refugees, including human rights lawyers, humanitarian workers, volunteers and journalists, have been subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree*”.

- ❖ **Access to the asylum procedure:** Access to asylum on the mainland remains highly problematic. Since September 2022, persons who want to submit an asylum application on the mainland should initially book an appointment through an online platform and then present themselves in one of the two registration facilities in Diavata (Thessaloniki) or Malakasa (Attica) to complete registration of their application.<sup>5</sup> However, access to the online platform is not always possible, while between May and August 2023, the platform stopped operating, thus making access to the procedure impossible in practice. Delays with respect to the scheduling of registration appointments have also continued being reported at least with respect to Malakasa RIC up to early 2024. In conjunction, these obstacles result in applicants have no access to their rights, nor being protected from detention. Lastly, upon presenting themselves at the registration facilities, applicants may be subject to *de facto* detention for a period up to 25 days, contrary to the requirements of Art. 8 of the Reception Directive. Access to the asylum procedure for persons detained in pre-removal centres has also remained a matter of concern.
- ❖ **Subsequent applications:** Subsequent applications lodged after the first subsequent application are subject to a fee of EUR 100 per applicant and, in case of families, EUR 100 per family member. Greece is the only EU Member State which requires payment of a fee to lodge a subsequent application, thereby raising concerns as to access to the asylum procedure. An Application for Annulment of the relevant JMD has been filled by GCR and RSA before the Council of State which, following postponement, was still pending at the end of the year.
- ❖ **Processing times:** The number of pending asylum applications has increased by close to 50% in 2023, compared in 2022, yet the lack of detailed data on examination timeframes makes it impossible to assess the extent of delays in 2023. At a general level, the procedure’s duration has been reported on average at less than 2.5 months by the Minister of Migration and Asylum in [October 2023](#). Yet, in lack of a breakdown, this data is likely to also include, *inter alia*, applications that have been speedily rejected under the “safe third country concept” and, based on the [categorisation](#) of first instance decisions followed by the MoMA, also implicit/explicit withdrawals, thus making this an indicator of questionable use. This is particularly the case considering ongoing delays of months and at times of even more than year only with respect to the conduct of asylum interviews [reported](#) at least in Malakasa RIC and Ritsona camp in March 2024.<sup>6</sup>
- ❖ **Legal assistance:** No state-funded free legal aid is provided at first instance, nor does the law establish an obligation to provide it. A state-funded legal aid scheme operates for the appeal procedure, on the basis of a registry of lawyers managed by the Asylum Service. However, obstacles in accessing free legal aid continued to be reported, *inter alia* because of the digitalisation of the procedure and the fictitious service of negative first instance decisions. The number of appellants who received free legal assistance by the State was not made available in 2023.

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<sup>5</sup> This does not apply in the case of UAMs, family members or fully registered asylum seekers, and persons having legally entered the country, who can lodge an application for asylum at the closest competent RAO or AAU.

<sup>6</sup> Solomon, Lost for Words: Lack of interpreters puts asylum seekers’ lives on hold in Greece”, 27 March 2023, available at: <https://tinyurl.com/247fkvv6>

- ❖ **Second instance procedure:** Most appeals are rejected at second instance. Out of the total in-merit second instance decisions issued in 2023 (7,605), 8.6% resulted in granting of refugee protection, 3% resulted in granting (and/or maintaining a first instance decision granting) subsidiary protection and the rest (88.4%) were negative. During the same period, 1,523 appeals were rejected as “inadmissible” (late appeals) without an in-merit examination, due to the fact that the appellants did not comply with the obligation of an in-person appearance of the appellant or their appointed lawyer before the Committee, or to present a certification of residence to the Committee, which constitutes a disproportionate administrative burden imposed to the appellants. Appeals against decisions rejecting the application in the accelerated procedure or as inadmissible under certain grounds do not have automatic suspensive effect, despite the fact that these decisions also incorporate a return decision with immediate effect.
  
- ❖ **Dublin:** During 2023, transfers of asylum seekers, including unaccompanied minors, in the context of family reunification (“Dublin III”) were suspended due to the termination of the contract for the provision of air transport services and the delay of the procedure for the conclusion of the new one between the Department of Immigration and Asylum and the travel agency. Following a report from an accommodation Structure for unaccompanied minors and the intervention of the Greek Ombudsman, the process was completed and transfers restarted. During May and June 2023, 66 outgoing transfers were implemented under the Dublin procedure. Data for the rest of the year is not available due to the upgrade of the computer system carried out by the Services of the Ministry of Immigration and Asylum.
  
- ❖ **Safe third country inadmissibility:** In 2021, Greece designated via JMD Türkiye as a “safe third country” for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia, despite the fact that no readmissions to Türkiye have taken place since March 2020. As a result, applications for international protection lodged by persons impacted by this decision throughout the Greek territory (borders and mainland) are examined under the safe third country concept and not on the basis of the individual risks they face in their country of origin (in-merits examination). Moreover, and as no readmission takes places, refugees whose applications have been/are rejected as inadmissible based on the “safe third country” concept end up in a state of legal limbo in Greece, and are exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application. Following an Application for Annulment lodged by GCR and RSA before the Council of State, in February 2023, the Council of State decided to refer a question to the Court of Justice of the European Union for a preliminary ruling on the interpretation of article 38 of 2013/32/EU Directive, which was discussed at an [oral hearing](#) before the CJEU on 14 March 2024.  
 In 2023, 4,773 inadmissibility decisions were issued in application of JMD 734214/06.12.2022 on safe third countries, of which 3,454 at first instance and 1,319 at second instance (82 of which concerned Albania and North Macedonia), despite the suspension of readmissions to Türkiye. Contrary to Art. 38 (4) of the Asylum Procedures Directive, applicants are not provided with an in merits examination. As stated repeatedly by the EU Commission, ‘to the extent the applicant is not permitted to enter the territory of the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State shall ensure, in accordance with the Asylum Procedures Directive, that access to a procedure is given to the applicant’.
  
- ❖ **Identification of vulnerability:** The low quality of the medical and psychosocial screening process (if any) has remained a source of serious concern with regards to the identification of vulnerabilities on the islands. Vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. No public health structures specialised in identifying or assisting torture survivors in their rehabilitation process exist across the country.

#### *Reception conditions*

- ❖ **Freedom of movement:** Asylum seekers subject to the EU-Türkiye statement, i.e. arriving on Greek islands, are subject to a geographical restriction (geographical limitation) order, which



obliges them not to leave the respective island until the end of the asylum procedure. The geographical limitation is applied *en masse* and without any prior individual assessment to all new arrivals to the Greek islands, while the regulatory framework that entered into force in January 2020 significantly limited the categories of applicants for whom the restriction can be lifted. A number of relevant decisions and *interim measures* have been granted by the ECtHR in 2023, including in December, in a case represented by GCR, concerning two Afghan women and their five minor children who, following their arrival had been *de facto* detained in the **Kos** CCAC, in completely unsuitable conditions, without access to accommodation and necessary healthcare.

- ❖ **Reception capacity:** Following the termination of ESTIA in December 2022, the Greek reception system has become one modelled on camp-based accommodation, yet notwithstanding available data on the capacity of island CCACs, which needs to be checked for its accuracy, the capacity of mainland camps is no longer regularly published and is therefore unknown. As of the end of 2023, a total of 32,900 persons were reported by the MoMA as residing in the Greek reception system, close to half of whom on the islands (15,914) and the rest in the mainland.
- ❖ **Living conditions:** As in the previous years, significant concerns have continued being observed and reported with regard to reception conditions in the newly established Closed Control Access Centres (CCACs) on the islands, including on account of their highly securitised nature. Particularly amidst the increased number of arrivals in the latter half of 2023, ongoing challenges with respect to the ability of the island CCACs have been further accentuated, while a number of *interim measures* granted by the ECtHR in 2023 further helps corroborate the unworkability of a system focused on receiving asylum applicants in remote locations at the borders. Regarding the mainland, a significant gap in available information makes it difficult to assess the full extent of conditions in the camps, and is in itself a gap that needs to be addressed. Yet applicants' access to their rights (material reception conditions) has continued being hindered, including on account of the isolated nature of the mainland camps.

#### *Detention of asylum seekers*

- ❖ **Statistics on detention:** The total number of third-country nationals detained in Pre-Removal Detention Centres (PRDCs) during 2023 was 19,003, slightly increasing compared to 2022 (18,966). Amongst those detained throughout 2023, 504 were unaccompanied minors. At the end of the year, a total of 2,325 third country nationals remained in administrative detention, including 1,003 asylum seekers. Out of the total number of detainees at the end of 2023, 2,064 were detained in PRDCs and 261 in police stations or other police facilities. Amongst those still detained in PRDCs at the end of 2023, more than one in four (687) had been detained for over 6 months, while in the specific case of asylum seekers, more than one in three (338 out of 1,003) of those still detained in PRDCs at the end of 2023 had remained detained for periods exceeding 6 months.
- ❖ **Detention in case of non-feasible return:** During 2023, applicants for international protection as well as rejected asylum seekers continued to remain systematically detained without any proper consideration of the prospect of return to Türkiye, despite returns being suspended since March 2020. In 2023, as in the previous year, a number of Court decisions continued to acknowledge that in the absence of an actual prospect of removal, detention lacks a legal basis. Following dozens of cases of successful litigation, as well as repeated interventions of the Greek Ombudsman during at least the last two years, this practice has been to a certain degree limited in certain parts of the country. However, it remains applicable in detention facilities in Northern Greece, and in particular with respect to persons from Afghanistan, who remain in prolonged administrative detention despite the lack of any prospect of removal.
- ❖ **Detention of applicants who have already asked for asylum though the online platform while at liberty:** Applicants who have booked a registration appointment through the Ministry's platform have, in practice, continued being arrested and detained in view of removal, despite

holding a document proving the existing appointment. In a number of Court decisions on cases brought before the Courts by GCR, the practice has been considered unlawful. According to those decisions, following access to the online platform and scheduling of an appointment for full registration, the person acquires the status of an asylum applicant. Despite these decisions, this pattern of arbitrary detention has persisted up to the end of 2023.

- ❖ **Detention conditions:** In many cases, detention conditions in pre-removal centres fail to meet adequate standards, inter alia due to their carceral and prison-like design. Police stations and other police facilities, which are by nature not suitable for detention exceeding 24 hours, continue to fall short of basic standards. At the end of 2023, no doctor was present in Paranesti and Kos PRDCs, while a psychiatrist was not available in any of Greece's PRDCs.
- ❖ **Legal remedies against detention:** No free legal aid is provided for a detainee to challenge their detention decision before Courts, contrary to national and EU law. In 2023, out of the total 20,540 detention orders issued, only 5,001 (24.3%) were challenged before a Court. *Ex-officio* judicial scrutiny of detention orders remains largely ineffective and illusory. Out of the total 6,369 detention decisions transmitted to Administrative Courts for ex officio examination, the extension of detention was not approved in only 25 cases.

#### *Content of international protection*

- ❖ **Renewal of residents permits:** Long waiting periods have continued being observed in a number of cases of renewal, which can reach, as far as GCR is aware, up to more than a year. Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (βεβαίωση κατάστασης αιτήματος) valid for six months. In practice, beneficiaries of international protection holding these certificates are only protected from detention and do not have access to any rights pending their residence permit's renewal.
- ❖ **Family reunification:** Refugees who apply for family reunification continue facing serious obstacles which render the effective exercise of the right to family reunification difficult and in some cases impossible in practice. Lengthy procedures, the requirement of documents which are difficult and/or impossible to obtain for refugees, administrative obstacles as regards the certification of documents and issuance of family reunifications visas, are amongst factors hindering and/or making access to this right impossible.
- ❖ **Housing of recognised refugees:** Beneficiaries of international protection residing in reception facilities must, with few exceptions, leave the accommodation provided to them within 30 days of being notified of their positive asylum decision. Given the limited integration of recognised beneficiaries of international protection in Greece, this has continued to result in a high risk of homelessness and destitution. Since at least 2021, several Courts in other EU member states have, with exceptions, halted the return of beneficiaries of international protection to Greece, on account of the risk of being exposed to conditions of severe material deprivation amounting to violation of article 4 of the EU Charter of Fundamental Rights, while in early 2023, the European Commission launched infringement proceedings against Greece on account of poor implementation of the Qualification Directive as regards the content of international protection, and in particular beneficiaries' access to social rights.

#### **Temporary protection**

The information given hereafter constitute a short summary of the 2023 Report on Temporary Protection. For further information, see [Annex on Temporary Protection](#).

- ❖ **Key temporary protection statistics:** A total of 26,848 people have been granted temporary protection in Greece as of 31 December 2023. The majority of whom are women (68.9%). The majority of beneficiaries were between the age of 35-64 (10,439), followed by those aged 18-34

(6,924) and those aged between 0-13 (5,760). Slightly more than 1 in 4 beneficiaries (26.6%) was a minor.

*Temporary protection procedure:*

- ❖ **Scope of protection:** In line with article 3(5) TPD, Greece has applied more generous provisions vis-à-vis refugees from Ukraine, and thus the temporal scope of protection has applied to those fleeing the country from 26 November 2021, instead of 24 February 2022. However, as regards third country nationals, only stateless persons and beneficiaries of international protection or equivalent national protection, including the member of their nuclear family, as long as the family existed and lived in Ukraine before 24/2/2022, are eligible, and not those with permanent residence in Ukraine and unable to return to their country of origin.
- ❖ **Vulnerability identification:** With the exception of checks, at the stage of registration, of indicators of trafficking in human beings, there was no specific procedure introduced for the identification of vulnerable applicants or beneficiaries. In what concerns unaccompanied minors, the General Secretariat of Vulnerable Persons and Institutional Protection, along with the Public Prosecutor, are informed in detail and immediately after registration of separated, and in very rare cases, unaccompanied children, from Ukraine.

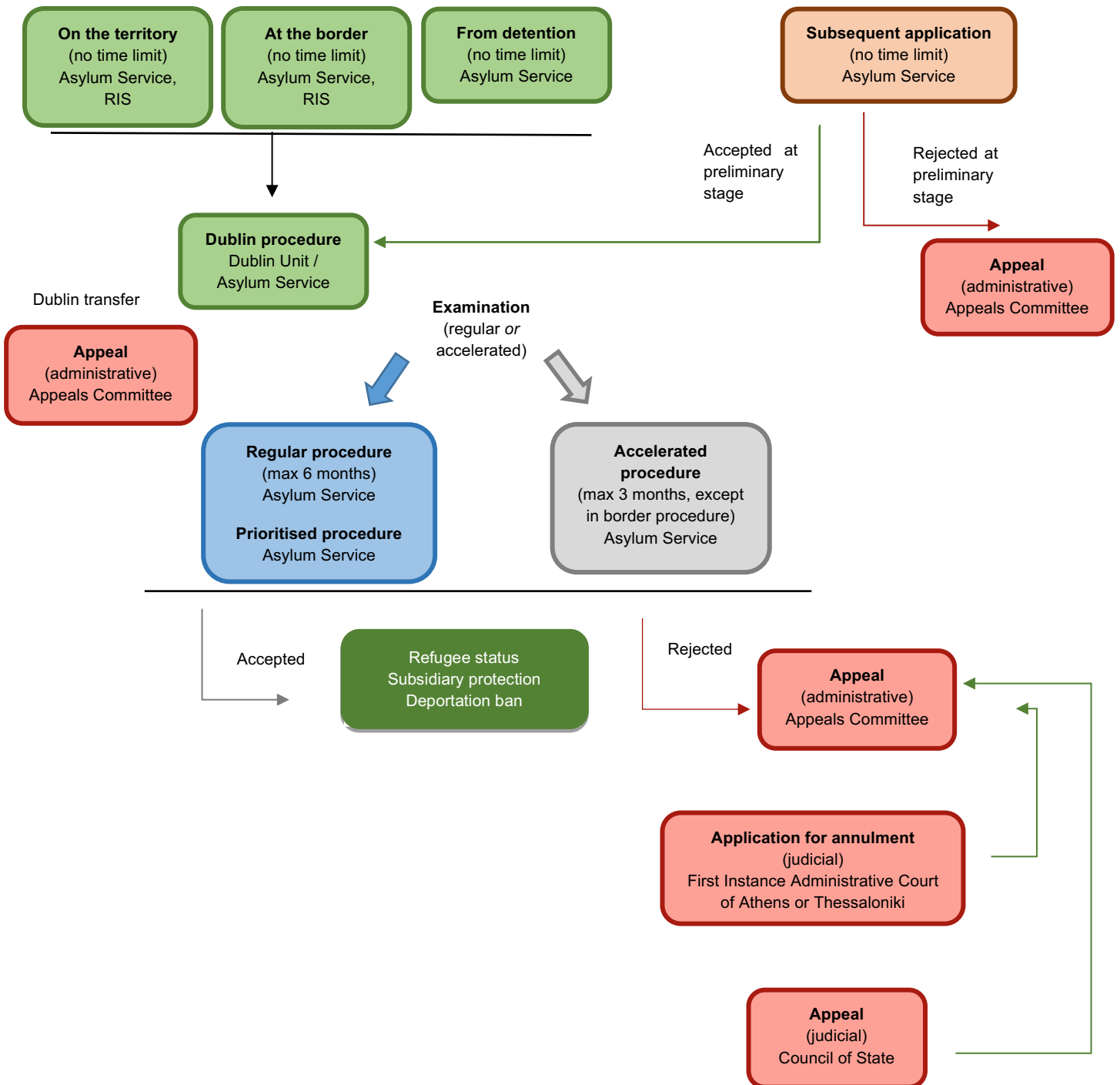
*Content of temporary protection*

- ❖ **Rights attached:** Persons benefit from specific family reunification rules foreseen for temporary protection, freedom of movement, access to the labour market and to education and vocational training, social welfare, healthcare although not to the level of Greek nationals or other legally residing third country nationals. Beneficiaries of temporary protection can also apply, until 4/3/2025, through an electronic platform, for any residence permit of the new Migration Code (L. 5038/2023) without the requirement of a valid visa.
- ❖ **Housing:** The main form of accommodation provided was reception centres; as of July 2022, accommodation was also provided through the HELIOS project to support successful integration, as accommodation support is offered along with language courses and employment support. Up to November 2023, out of a total of 45,221 persons that have enrolled into HELIOS since the programme first started operating in 2019, 14.1% have been Ukrainian nationals, albeit those also receiving accommodation support (rent subsidies) under the programme is not available.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |   |   |                             |
|---|---|-----------------------------|
| ❖ Regular procedure:                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: <sup>7</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: <sup>8</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure:              | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>9</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other:                                | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Are any of the procedures that are foreseen in the law, not being applied in practice?  Yes  No

## 3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (GR)
Application ❖ At the border ❖ On the territory	Asylum Service, RIS	Υπηρεσία Ασύλου, Υπηρεσία Υποδοχής
Dublin	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
First appeal	Independent Appeals Committees (Appeals Authority)	Ανεξάρτητες Επιτροπές Προσφυγών (Αρχή Προσφυγών)
Onward appeal	First Instance Administrative Court of Athens or Thessaloniki	Διοικητικό Πρωτοδικείο Αθηνών ή Θεσσαλονίκης
Subsequent application	Asylum Service	Υπηρεσία Ασύλου

The European Union Agency for Asylum (EUAA) is also involved at different stages of the procedure, as will be explained further below.

## 4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Asylum Service	Not available	Ministry on Migration and Asylum	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

The Asylum Service is responsible for examining applications for international protection and competent to take decisions at first instance.

### Staffing and capacity

**Asylum Service:** PD 104/2012, as modified by L 4375/2016, provides for Regional Asylum Offices (RAO) to be set up in Attica, Thessaloniki, Thrace, Epirus, Thessaly, Western Greece, Crete, Lesvos, Chios, Samos, Leros and Rhodes. It is possible to establish more than one Regional Asylum Office per region

<sup>7</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>8</sup> Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

<sup>9</sup> Entailing lower procedural safeguards, whether labelled as 'accelerated procedure' in national law or not.

by way of Ministerial Decision for the purpose of covering the needs of the Asylum Service.<sup>10</sup> Further changes were introduced via P.D. 106/2020 (art. 26-31).

At the end of April 2024, GAS has had a combined staff of 965 persons (permanent and interim staff, EUAA embedded staff).<sup>11</sup>

Regional Asylum Office/Units/Facility	Registrations December 2023 (first time)
RAO Attica	114
RAO Piraeus	6
RAO Alimos	16
AAU Amygdaleza	167
RIC Malakasa	426
AAU for Asylum Applicants under custody	15
AAU Corinth	21
RAO Thessaloniki	29
Sintiki Serres	53
AAU Safe Countries of Origin	37
RIC Diavata	534
RAO Patra	7
AAU Ioannina	4
RIC Fylakio	535
RAO Thrace	6
AAU Xanthi	10
AAU Paranesti	16
CCAC Lesvos	1,055
CCAC Samos	1,380
CCAC Chios	194
CCAC Leros	372
CCAC Kos	1,246
RAO Crete	17

Source: MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 8b.

**EUAA:** In April 2016, the law introduced the possibility for the Asylum Service to be assisted by European Asylum Support Office (EASO) personnel “exceptionally” and “in cases where third-country nationals or stateless persons arrive in large numbers”, within the framework of the [Fast-Track Border Procedure](#).<sup>12</sup> In June 2016, a subsequent amendment to the national legislation explicitly provided the possibility for the asylum interview within that procedure to be conducted by an EASO caseworker.<sup>13</sup> The IPA has maintained this option, and has inserted the possibility for fast-track border procedure and admissibility interviews to be conducted by personnel of the Hellenic Police or the Armed Forces in particularly urgent circumstances.<sup>14</sup> Since May 2018, Greek-speaking EASO personnel could also assist the Asylum Service in the [Regular Procedure](#).

<sup>10</sup> Article 1(3) L 4375/2016.

<sup>11</sup> Info provided by the MoMA as part of right to reply.

<sup>12</sup> Article 60(4)(b) L 4375/2016.

<sup>13</sup> Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.

<sup>14</sup> Articles 77(1) and 90(3)(b) IPA.

Greece has received operational support by the EASO/EUAA since 2011. The 2022-2024 operational plan was amended in March 2023 to take into account the changes in the operational context, notably in light of “the continued low rate of arrivals in the country compared to the period prior to the pandemic, and the increased capacity of the Greek authorities to process asylum applications, which has led EUAA and national authorities to agree on a phased exit strategy from support in the field of asylum”.<sup>15</sup> Additionally, on 29 April 2024 EUAA and the Ministry for Migration and Asylum signed an updated Operational Plan, focusing efforts on supporting vulnerable applicants and unaccompanied children, and on prioritizing resources for processing new arrivals and registering applications.<sup>16</sup>

In 2023, the EUAA deployed 558 experts in Greece,<sup>17</sup> most of which were temporary agency workers (532). The majority of these experts were case management reception assistants (57), site management reception assistants (52), caseworkers (51), registration assistants (43), deployed personnel on registration, administrative and information provision (32), Information management assistants (28), field support officers (27) and a series of other programme and support staff (e.g., operations assistants for unaccompanied minors, information and communication technology assistants, Dublin experts, legal officers, etc.).<sup>18</sup>

As of 19 December 2023, there were a total of 486 EUAA experts present in Greece, 46 of which were caseworkers, 44 case management reception assistants, 42 site management reception assistants, 35 registrations assistants and 29 deployed personnel on registration, administrative and information provision.<sup>19</sup>

## 5. Short overview of the asylum procedure

The asylum procedure in Greece underwent substantial reforms throughout 2016, many of which were driven by the adoption of the EU-Türkiye statement of 18 March 2016. The adoption of Law (L) 4375/2016 in April 2016 and its subsequent amendments in June 2016 overhauled the procedure. Provisions related *inter alia* to the implementation of the EU-Türkiye statement were re-amended in March 2017, August 2017 and May 2018.

Following the July 2019 elections, the new government announced a more restrictive policy on migration and asylum.<sup>20</sup> As a result, the national asylum legislation was radically re-amended. L. 4636/2019 (hereinafter International Protection Act/IPA), was adopted on 1 November 2019 and entered into force on 1 January 2020, replacing the previous legislation on asylum and reception.

The IPA has been repeatedly and heavily criticised by national and international human rights bodies, including the Greek Ombudsman,<sup>21</sup> the Greek National Commission for Human Rights (GNCHR),<sup>22</sup> UNHCR,<sup>23</sup> and several civil society organisations.<sup>24</sup> It has been categorised, *inter alia*, as an attempt to

<sup>15</sup> EUAA, *Operational Plan 2022-2024 agreed by the European Union Agency for Asylum and Greece*, 3 March 2023, available at: <https://bit.ly/3RAaBD9>. To be noted that, in the second half of 2023, a substantial increase in migratory flows to Greece led to an increased operational support from EUAA, under “surge support”, towards the end of the year.

<sup>16</sup> Information received from the MoMA based on the comments provided to the 2023 AIDA country report.

<sup>17</sup> Out of the 558 experts deployed in Greece in 2023, two were deployed under two different types of contracts. In addition, EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.

<sup>18</sup> Information provided by the EUAA, 26 February 2024. In the figures above, the same persons may have been included under different profiles, if a change in profile took place in the course of 2023.

<sup>19</sup> Information provided by the EUAA, 26 February 2024.

<sup>20</sup> Amnesty International, *Annual Report 2019*, Greece, available at: <https://bit.ly/2LDT5L6>.

<sup>21</sup> Greek Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου του Υπουργείου Προστασίας του Πολίτη περί διεθνούς προστασίας*, 23 October 2019, available in Greek at: <https://bit.ly/2LAXCCH>.

<sup>22</sup> GNCHR, *Παρατηρήσεις της ΕΕΔΑ στο Σχέδιο Νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας»*, 24 October 2019, available in Greek at: <https://bit.ly/3KPLpnH>.

<sup>23</sup> UNHCR, *UNHCR urges Greece to strengthen safeguards in draft asylum law*, 24 October 2019, available at: <https://bit.ly/3fXkm9j>.

<sup>24</sup> See *inter alia* GCR, *GCR's comments on the draft bill “On International Protection”*, 23 October 2019, available at: <https://bit.ly/3PUFCjB>; Amnesty International, *Το προτεινόμενο σχέδιο νόμου για το άσυλο υποβαθμίζει την προστασία και τα δικαιώματα των προσφύγων και παραβιάζει τα διεθνή πρότυπα*, 24 October 2019, available

lower protection standards and create unwarranted procedural and substantive hurdles for people seeking international protection. As noted by UNHCR, the new Law reduces safeguards for people seeking international protection and creates additional pressure on the overstretched capacity of administrative and judicial authorities. The agency stated *inter alia* that “as a result, asylum seekers may be easily excluded from the process without having their international protection needs adequately assessed. This may expose them to the risk of *refoulement*”.<sup>25</sup>

On 10 April 2020, four months after the entry into force of the new law, the Ministry of Migration and Asylum submitted a bill entitled “Improvement of migration legislation”, aiming at speeding up asylum procedures and at “responding to practical challenges in the implementation of the law”. The proposed amendment further weakens basic guarantees for persons in need of protection. *Inter alia*, the draft law increases the number of applications which can be rejected as manifestly unfounded and introduces a set of provisions that can lead to arbitrary detention of asylum seekers and third country nationals.<sup>26</sup> The draft law was adopted by the Parliament on 9 May 2020,<sup>27</sup> despite concerns from human rights bodies, including the Council of Europe Commissioner for Human Rights and civil society organisations.<sup>28</sup> Further amendments were introduced by L. 4825/2021 and adopted in September 2021.

In June 2022, L. 4939/2022 “Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons” (hereinafter Asylum Code) was adopted by the parliament, mainly codifying amendments introduced after 2019 (*i.e.*, IPA, etc.), in one piece of legislation.

### First instance procedure

Since September 2022, Asylum applications need to be lodged in Malakasa and Diavata Reception and Identification Centres (RICs), in the south and north of Greece respectively. Subsequent applications are lodged before the Regional Asylum Offices (RAO) and Asylum Units (AU) across the country. The Asylum Service is also competent for applying the **Dublin procedure**, with most requests and transfers concerning family reunification in other Member States. The Asylum Service may be assisted by EUAA staff in registration and interviews. Effective access to the asylum procedure still remains an issue of concern. First instance decisions rejecting an asylum application also include a removal order or incorporate a previous removal decision if one had already been issued.

Following the issuance of the Joint Ministerial Decision (JMD) on 7 June 2021, which designated Türkiye as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan and Bangladesh,<sup>29</sup> applications submitted by applicants of these nationalities on the islands and in the mainland, are examined under the safe third country concept. In December 2021, the JMD was amended to include Albania and North Macedonia in the list of safe third countries, covering applicants arriving from the respective territories.<sup>30</sup> Since then, application of the safe third country concept in the specific cases has

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in Greek at: <https://bit.ly/3dWduqV>, RSA, *RSA Comments on the International Protection Bill*, 21 October 2019, available at: <https://bit.ly/2LCfJU7>; Actionaid Greece et al, *15 civil society organisations call upon the Government to organise a substantial public consultation prior of voting the draft law on asylum*, 31 October 2019, available in Greek at: <https://bit.ly/2Zf4tFe>; Amnesty International et al., *Joint press conference regarding the draft law on asylum*, 30 October 2019, available at: <https://bit.ly/3bDUgVr>.

<sup>25</sup> UNHCR, ‘UNHCR’s Intervention at the hearing for actors to the Standing Committee of Public Administration, Public Order and Justice of the Hellenic Parliament regarding the Draft Law on the Improvement of Migration Legislation’, 9 May 2020, available at: <https://bit.ly/3dJEB8H>.

<sup>26</sup> *Ibid.*; See also GCR, *GCR’s comments on the draft law amending asylum legislation*, 27 April 2020, available at: <https://bit.ly/2ywIMWa>; RSA, *RSAComments on the Reform of the International Protection Act*, 23 April 2020, available at: <https://bit.ly/2WvMwQR>.

<sup>27</sup> L. 4686/2020, Gov. Gazette A’ 96 /12 May 2020; Amendments introduced by L. 4686/2020 in May 2020 are not included in the present report.

<sup>28</sup> Council of Europe, Commissioner for Human rights, 7 May 2020, available at: <https://bit.ly/3PLbmYf>.

<sup>29</sup> Article 1 JMD 42799/2021 on the Determination of third countries designated as safe and establishment of a national list, as defined in Article 86 L. 4636/2019, available in Greek at: <https://bit.ly/4aGni5U>.

<sup>30</sup> Article 1 (B) and (C) JMD 458568/2021, available in Greek at: <https://bit.ly/4aGnnGK>.



been renewed via relevant JMDs issued in December 2022 and December 2023,<sup>31</sup> which did not introduce further changes.

A **fast-track border procedure** is applied to applicants subject to the EU-Türkiye statement, *i.e.*, applicants arriving on the Eastern Aegean islands after 20 March 2016. This procedure takes place in the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos).

## Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular procedure, 20 days in the accelerated procedure, in case of an inadmissibility decision or if the applicant is detained, 15 days in the Dublin procedure, 10 days in the border procedure and in the fast-track border procedure and five days in the case of an inadmissibility decision on a subsequent application.

Appeals submitted against decisions rejecting applications in the accelerated procedure or dismissed as inadmissible on certain grounds do not have an automatic suspensive effect. The procedure before the Appeals Committees is written.

An Application for Annulment against a negative second instance decision can be filed before the First Instance Administrative Court of Athens or Thessaloniki within 30 days from the notification. No automatic suspensive effect is provided and there is no tailored free legal aid.

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  Yes  No
2. Is there a border monitoring system in place?  Yes  No
3. Who is responsible for border monitoring?  National authorities  NGOs  Other
4. How often is border monitoring carried out?  Frequently  Rarely  Never
5. Are there credible reports about pushbacks?  Yes  No

### Number of arrivals in Greece and statistics

A total of 48,721 refugees and migrants arrived in Greece during 2023, as reported by UNHCR,<sup>32</sup> marking a 159.43% increase compared to 2022 (18,780). Of this total, 41,561 persons arrived in Greece by sea in 2023 compared to 12,758 persons in 2022. The majority originated from Syria (31,3%) Afghanistan (20%), State of Palestine (16,3%) and Somalia (6,5%). Nearly half of this population were women (28%) and children (28 %), while 54% were adult men.<sup>33</sup> The number of sea arrivals in 2023 has increased by 226% compared to 2022, according to UNHCR.<sup>34</sup>

<sup>31</sup> JMD 734214/2022, available in Greek at: <https://bit.ly/3TMbGY3>, and JMD 538595/2023, available in Greek at: <https://bit.ly/3J4S24L>, respectively.

<sup>32</sup> UNCHR, *Operational Portal, Mediterranean Situation: Greece*, available at: <https://bit.ly/3WubNsb>.

<sup>33</sup> *Ibid.*

<sup>34</sup> UNHCR, *Greece Sea arrivals Dashboard - December 2023*, available at: <https://bitly.ws/3dt8D>.

Moreover, according to UNHCR,<sup>35</sup> 7,160 persons arrived in Greece through the Greek-Turkish land border of Evros in 2023, compared to a total of 6,022 persons in 2022. According to police statistics provided to GCR on 18 January 2024,<sup>36</sup> 7,066 arrests for irregular entry at the Evros land borders were carried out throughout 2023, compared to 6,672 arrests in 2022.<sup>37</sup>

In parallel, the figures on the number of entries of each year, including 2023, may under-represent the number of people attempting to enter Greece or that found themselves on Greek territory, given that cases of alleged pushbacks have been reported as a systematic practice in recent years. The persisting practice of alleged pushbacks has been reported inter alia by UNHCR, IOM, the UN Special Rapporteur on the human rights of migrants, the Council of Europe Commissioner and civil society organisations (see sources below).

Lastly, as reported by UNHCR,<sup>38</sup> 799 persons were reported as having gone dead or missing during the year. As per the same data, this is more than double than in 2022 (343). These numbers, proportionately to the number of arrivals, highlights an ongoing dark trend, observed since 2021, whereby more than 1 in a 100 persons trying to reach safety in Greece and the EU, end up going dead and missing.<sup>39</sup> The only other time in recent memory when such a shocking number of people were reported dead and missing during their effort to reach safety in the EU was in 2015 (799 dead and missing), during which UNHCR reported more than 860,000 arrivals. This macabre trend may also further indicate the increasingly dangerous journeys people seeking safety in Greece and the EU have to take, in the absence of safe and legal pathways and amidst systematically reported pushback practices.

### The Pylos shipwreck

Most of the dead or missing persons of 2023, disappeared or died on the night of 13th to 14th of June 2023. That night, the overcrowded fishing vessel “Adriana”, carrying approximately 750 persons, capsized 47 nautical miles southwest of Pylos, Greece, in the Greek Search and Rescue (SAR) zone. The vessel left Libya and was en route to Italy. In one night only, approximately 650 persons went missing or died in one of the deadliest shipwrecks to ever occur in Greece and in the Mediterranean. Of those on board the “Adriana”, 104 survived, 9 of whom are currently in pre-trial detention with criminal charges of smuggling,<sup>40</sup> and 82 bodies were recovered.

On 13 September 2023, forty survivors of the deadly shipwreck in Pylos filed a criminal complaint against all responsible parties before the Naval Court of Piraeus.<sup>41</sup> The survivors submit that the Greek authorities failed to immediately intervene and to organise a timely and adequate rescue operation despite their duty to rescue the passengers on board under International Law of the Sea, Human Rights Law, EU and domestic Law.<sup>42</sup> This was especially due to the fact that they had been informed from the outset and subsequently ascertained at close distance the imminent threat to life facing passengers on board the manifestly unseaworthy and overcrowded trawler. The complainants allege that the Greek authorities not only refrained from taking the necessary rescue measures as soon as the vessel was sighted, but instead

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<sup>35</sup> *Ibid.*

<sup>36</sup> Directorate of the Hellenic Police, 18 January 2024.

<sup>37</sup> UNCHR, *Operational Portal, Mediterranean Situation: Greece*, available at: <https://bit.ly/3WubNsb>.

<sup>38</sup> *Ibid*

<sup>39</sup> As per the same data published by UNHCR, the number of arrivals in 2021 stood at 9,157, in 2022 at 18,780 and in 2023 at 48,721. During the same interval, 115 persons were reported dead and missing in 2021, 343 in 2022 and 799 in 2023. Proportionally to the number of arrivals, this means that the rate of dead and missing in 2021 stood at roughly 1.3%, in 2022 at 1.8% and in 2023 at 1.6%.

<sup>40</sup> AlJazeera, *Egyptians accused in Pylos shipwreck case deny smuggling, blame Greece, Months after the tragic disaster that killed hundreds at sea, nine accused men languishing in prison insist they are innocent*, 12 February 2024, available at: <https://bit.ly/3xpN4wQ>.

<sup>41</sup> GCR, *40 survivors of the Pylos shipwreck file a criminal complaint before the Naval Court of Piraeus*, Press Release of 14 September 2023, available at: <https://bit.ly/49FIHeF>.

<sup>42</sup> *Ibid.*, “The survivors, represented by the Network for Refugee and Migrant Rights, the Hellenic League for Human Rights (HLHR), the Greek Council for Refugees (GCR), the Initiative of Lawyers and Jurists for the shipwreck of Pylos, and Refugee Support Aegean (RSA), denounce a series of violations of the Greek authorities' obligations to protect the lives of those on board and demand an effective investigation into the circumstances of the deadliest shipwreck to occur in the Mediterranean in recent years”.

proceeded to an effort to tow the vessel that resulted in its capsizing and sinking. The Greek authorities' delay in initiating a SAR operation, "until the moment of the shipwreck when it was no longer possible to rescue all the people on board", as well as failure to deploy sufficient resources or make use of those available to them, was also noted in a leaked serious incident report drafted by the FRONTEX Fundamental Rights Officer.<sup>43</sup> The complainants demand an immediate, thorough and reliable investigation and the attribution of criminal responsibility for the acts and omissions of the Greek authorities.

A number of international organisations and institutions, including the Commissioner for Human Rights of the Council of Europe<sup>44</sup> and the LIBE Committee of the European Parliament,<sup>45</sup> have urged Greece to carry out a full and effective investigation into the circumstances of the shipwreck. The deadliest shipwreck of the Mediterranean has sparked global interest,<sup>46</sup> a declared commitment of the Greek authorities to conduct a thorough investigation and the launch of a preliminary examination by the Naval Court of Piraeus.

On the 9 November 2023, the Greek Ombudsman announced with a press release<sup>47</sup> that he is opening an independent investigation into the Pylos shipwreck, a step that was welcomed by the Council of Europe Commissioner for Human Rights.<sup>48</sup>

On 26 February 2024, the European Ombudsman released her conclusions on EU search and rescue as related to the Pylos shipwreck. In her report, the European Ombudsman *inter alia* underlines that there are growing concerns about persistent violations of fundamental rights in Greece's border control operations, and that the investigation of the shipwreck and any assessment of the facts is severely compromised by the absence of video or other recording of the shipwreck and the following events, which raises again a pattern of inadequate handling and subsequent investigation of such incidents from the Greek authorities.<sup>49</sup> Concluding, the Ombudsman notes that "[t]he European Union projects its identity through the prism of its commitment to the rule of law and to fundamental rights. In the aftermath of the *Adriana* tragedy, it should take the opportunity to reinforce that identity through reflection and through actions that would, to the greatest extent possible, prevent such a tragedy from happening again".<sup>50</sup>

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<sup>43</sup> FRONTEX, *Final Serious Incident (Si) Report*, Sir 12595/2023, 1 December 2023, available at: <https://bit.ly/4aCLhTk>, p.16. The document is *inter alia* referred to in EfSyn, *Hot document by FRONTEX burns the Greek authorities on the Pylos shipwreck*, 1 February 2024, available in Greek at: <https://bit.ly/4aF6vjw>.

<sup>44</sup> Commissioner for Human Rights of the Council of Europe, *Pylos shipwreck: the Greek authorities must ensure that effective investigations are conducted*, 28 July 2023, available at: <https://bit.ly/43QaAPQ>.

<sup>45</sup> LIBE Committee of the European Parliament, *Exchange of views on the migrant boat shipwreck off the coast of Greece: extracts*, 6 July 2023, available at: <https://bit.ly/3xozQQZ>.

<sup>46</sup> Indicatively: Reuters, *Greece scours shipwreck site; hundreds feared drowned in boat's hold*, 16 June 2023 available at: <https://bit.ly/3VPiNSa>, AP, *Independent inquiry launched into shipwreck off Greece that left hundreds of migrants feared dead*, 9 November 2023, available at: <https://bit.ly/4cMkKFe>.

<sup>47</sup> "An independent investigation is initiated by the Greek Ombudsman on the Pylos shipwreck incident. The Ombudsman Mr. Andreas Pottakis addressed two letters to the Commandant of the Hellenic Coastguard requesting a thorough internal investigation on any acts or omissions by Coastguard officers in connection to the tragic incident of 14.06.2023. Following the expressed denial of the Coastguard to initiate a disciplinary investigation, the Independent Authority decided to initiate its own investigation, in its special mandate as National Mechanism for the Investigation of Arbitrary Incidents in relation to acts or omissions of Coastguard officers upon the Pylos shipwreck. The Ombudsman considers that absolute transparency on administrative actions taken by competent officials concerning this tragic incident where many lives were lost is an elementary Rule of Law command", available at: <https://bit.ly/4aIVIKI>.

<sup>48</sup> Commissioner for Human Rights of the Council of Europe, *Greece: the Ombudsman institution opening an independent investigation into the Pylos shipwreck is a welcome step*, 09 November 2023, available at: <https://bit.ly/4cGVDmZ>.

<sup>49</sup> For more, see RSA, *The European Ombudsman on the Pylos shipwreck*, 1 March 2024, available at: <https://tinyurl.com/3jrxnpwu>.

<sup>50</sup> European Ombudsman, *Conclusions of the European Ombudsman on EU search and rescue following her inquiry into how the European Border and Coast Guard Agency (Frontex) complies with its fundamental rights obligations in the context of its maritime surveillance activities, in particular the *Adriana* shipwreck*, 26 February 2024, available at: <https://tinyurl.com/38mukedp>.

## Developments on investigating and reporting pushbacks

The Greek Government has remained opposed to the development of an independent border monitoring mechanism and has referred<sup>51</sup> to the National Transparency Authority (NTA) as the body responsible amongst others for the investigation of pushback allegations.<sup>52</sup> As of the date of this report, no effective investigation has been conducted on the repeated and consistent pushback allegations. The National Transparency Authority (NTA) has been criticised for lacking expertise to investigate pushbacks and for failing to act as an independent body, due to its failure to comply with the constitutional prerequisites for safeguarding the independence of such authorities.<sup>53</sup> In May 2022, NTA released its, one and only, investigation report<sup>54</sup> following the referral of a case by the Minister of Migration and Asylum in response to a publication by Lighthouse Report evidencing pushbacks of refugees and migrants by Greece.<sup>55</sup> The investigation was carried out from November 2021 to March 2022. This investigation did not involve any victim of pushbacks, representatives of UN agencies, or the Ombudsman or the Greek National Commission for Human Rights. In fact, only one lawyer and one NGO offering medical services were interviewed, out of a total of 65 persons interviewed, which included 29 Greek officials.<sup>56</sup> Both the content and process of publication of the report were marred by serious deficiencies, such as the investigation's stated aims *inter alia* to 'to reflect the view of local communities on how irregular migration is managed by the relevant national bodies'<sup>57</sup> and to record 'the view of the local community on allegations of pushbacks'. Serious concerns were also voice about the NTA's failure to correctly anonymise the data of the report.<sup>58</sup>

Moreover, on 31 July 2023, NTA published its annual report for 2022 which, as noted by the NTA, "provides objective and comprehensive information on all the activities of the Authority, which were carried out during 2022, as well as the actions included in its operational planning for the following year".<sup>59</sup> In the Greek version of the same report, it is mentioned that NTA in 2022 received a total of 2,694 general complaints, 167 of which were forwarded to other audit services (mainly to the "AADE" and the Internal

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<sup>51</sup> European Commission against Racism and Intolerance, *ECRI report on Greece (sixth monitoring cycle)*, 28 June 2022, available at: <https://bit.ly/3Muu4Bd>, p. 36: comment by the Greek authorities 'In particular, the National Transparency Authority -that enjoys institutional autonomy- has been designated as the competent authority to investigate allegations of incidents involving the breach of fundamental rights at the borders and so far, its investigation has not resulted in the substantiation of any alleged violations. The National Transparency Authority operates in parallel to the Ombudsman and the Judiciary system that have also, within their respective mandates, reviewed cases related to border protection and fundamental rights. Moreover, an internal disciplinary mechanism is well in place within the Security Forces to ensure that complaints for violations of fundamental rights allegedly committed by its personnel are adequately investigated'.

<sup>52</sup> GCR, *Greek Council for Refugees input for the forthcoming report of the Special Rapporteur on the human rights of migrants with respect to human rights violations at international borders: trends, prevention and accountability*, 28 February 2022, p. 5 and footnotes 29 and 30, available at: <https://bit.ly/3oleekc>.

<sup>53</sup> UN Special Rapporteur on human rights defenders, *Statement on preliminary observations and recommendations following official visit to Greece*, 22 June 2022, available at: <https://bit.ly/3q1bwAZ>. See also UNHCR, OHCHR, ENNHRI, *Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece*, 9 September 2021, available at: <https://bit.ly/3MjauaM>: 'Ensure that those entrusted with monitoring fundamental rights at borders have thorough institutional experience in international human rights law, EU fundamental rights law and in fundamental rights as guaranteed by the Greek Constitution and national legislation as well as on evolving international, European and national case law interpreting such law. Institutional experience in asylum, border management and return as well as practical experience in human rights monitoring and in working with law enforcement actors are additional assets which facilitate a successful functioning of the monitoring mechanism.'

<sup>54</sup> See the full report, available in Greek at: <https://bit.ly/3lzbqqu>.

<sup>55</sup> Lighthouse reports, *Frontex, the EU Pushback Agency: Frontex's internal database suggests the EU border agency is involved in illegal pushbacks on a massive scale*, 6 May 2022, available at: <https://bit.ly/3WpRXyg>. NTA, *Investigation Report OM3/4*, available at: <https://bit.ly/3OvFil8>, pp. 39-44.

<sup>57</sup> RSA et al., *Systemic breaches of the rule of law and of the EU asylum acquis at Greece's land and sea borders*, June 2022, available at: <https://bit.ly/3BPeWJQ>.

<sup>58</sup> *Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report*, January 2023, available at: <https://bit.ly/45qfPpQ>, p. 27: 'Due to NTA's own failure to correctly anonymise data in the report, the personal details of persons interviewed as part of the investigation were made public. Out of 65 persons interviewed for the purposes of the investigation, the Authority spoke to 21 locals working mostly in shipping and fisheries or members of local business associations, ten religious leaders, only one lawyer and one NGO offering medical services, zero victims and zero representatives of UN agencies, the Ombudsman or the National Commission for Human Rights. 29 interviewees were Greek officials'.

<sup>59</sup> NTA, *2022 Annual Report*, 31 July 2023, available in Greek at: <https://bit.ly/3TNGjMN>, and English at: <https://bit.ly/4amDMAI>.

Affairs Service of the Security Services) due to lack of jurisdiction.<sup>60</sup> This annual report does not mention any activity related to investigation on a complaint concerning pushbacks nor of any public service/authority against which allegations of being engaged in pushback operations has arisen in recent years.

Additionally, in July 2022 and following discussion between the EU Commission and the Greek Authorities on a 'new proposal to mainstream fundamental rights' within the Greek asylum system,<sup>61</sup> a Fundamental Rights Officer (FRO)<sup>62</sup> and a Special Committee on Fundamental Rights Compliance (Task Force for Fundamental Rights Compliance) were appointed<sup>63</sup> within the Ministry of Migration and Asylum. The Ministry of Migration and Asylum publicly announced the first meeting of the Commission in August 2022, even though a Ministerial Decision, specifying the Committees responsibilities, pursuant to article 50 (3) L. 4960/2022<sup>64</sup> was only issued close to a year later, in June 2023.<sup>64</sup> No further information has been made available by the Ministry on the work of the Commission to date. Both the Ombudsman<sup>65</sup> and the National Commission for Human Rights (GNCHR)<sup>66</sup> have explicitly called upon the government to reconsider the above reform of a Commission underpinned by 'majority participation of representatives of the Administration',<sup>67</sup> as incompatible with their mandates and independence.

In September 2023, the Fundamental Rights Officer of the Ministry of Migration and Asylum activated an online complaint platform.<sup>68</sup> According to the platform's instructions, the complaints must be submitted by name and in writing by the victim-third country national, in Greek or English and only about incidents that were not brought before judicial or prosecuting authorities. No possibility for a representative of the victim-third country national to submit a complaint on their behalf is provided.

Furthermore, in January 2023, the National Commission for Human Rights published its Interim Report on its Recording Mechanism of Informal Forced Returns, which had been launched in early 2022.<sup>69</sup> In the framework of this Mechanism, ten civil society organisations,<sup>70</sup> including GCR, recorded at least 50 incidents and 58 testimonies of informal forced returns which, according to testimonies of the alleged victims, occurred between April 2020 and October 2022. The total number of alleged victims in the report was approximately 2,157 third country nationals, including asylum seekers and recognised refugees in Greece. In December 2023, the "Recording Mechanism" published a follow-up report<sup>71</sup> to the Interim Report of the Recording Mechanism of January 2023. In the period between February 2022 and December 2022, the Recording Mechanism has recorded testimonies through personal interviews with

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<sup>60</sup> Ibid., pages 43-44

<sup>61</sup> DRC, *Protecting Rights at Borders: Beaten, punished and pushed back*, 27 January 2023, available at: <https://bit.ly/3opeoXU>.

<sup>62</sup> Greek Ministry of Migration and Asylum, *The Fundamental Rights Officer at the MoMA was appointed*, 6 December 2022, MoMA, available at: <https://bit.ly/3lwEYK>.

<sup>63</sup> Articles 49 and 50 of law 4960/2022 (GG A'145); See also DRC, *Protecting Rights at Borders: Beaten, punished and pushed back*, 27 January 2023, available at: <https://bit.ly/3opeoXU>.

<sup>64</sup> MD 329937/2023 on the Responsibilities and operation of the Special Committee for Compliance with Fundamental Rights of the Ministry of Migration and Asylum.

<sup>65</sup> Greek Ombudsman, *The Ombudsman's reservations regarding his participation in committees of the Ministry of Migration and Asylum – Letter to the Ministry of Migration*, 29 July 2022: 'The Ombudsman's work in this field is accompanied by the maximum guarantees of personal and functional independence according to the Constitution, thus constituting the 'strong and timeless institution with increased guarantees of reliability and transparency in the examination of complaints,' elements that I understand are sought after by the Ministry. Therefore, his parallel participation in a collective body of the administration with the same object raises concerns regarding the possibility of limiting his autonomous, independent role, his competences, or at least a blurring/overlap of competences'. See, Greek Ombudsman, *The Ombudsman's reservations regarding his participation in committees of the Ministry of Migration and Asylum*, available at: <https://bit.ly/47BW3by>.

<sup>66</sup> GNCHR, letter on 21 October 2022, available in Greek at: <https://bit.ly/43kpmMW>.

<sup>67</sup> *Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report*, January 2023, available at: <https://bit.ly/45qfPpQ>, p. 37.

<sup>68</sup> Available at: <https://bit.ly/3VLxbl8>.

<sup>69</sup> GNCHR, *Recording Mechanism of Informal Forced Returns, Interim Report*, January 2023, available at: <https://bit.ly/3IUTyH5>.

<sup>70</sup> Greek Council for Refugees (GCR), Hellenic League for Human Rights (HLHR), Network for Children's Rights, Medical Intervention, METAdrasi – ACTION FOR MIGRATION AND DEVELOPMENT, Transgender Support Association, RSA, HIAS Greece, Legal Centre Lesbos, Danish Refugee Council Greece (DRC): see <https://bit.ly/3lx1jTI>.

<sup>71</sup> GNCHR, *Full Annual Report of 2022*, published in December 2023, available at: <https://bit.ly/3PSOtv>.

43 alleged victims about 50 incidents of illegal forced returns. The countries of origin of the alleged victims are listed among the countries whose nationals are granted international protection status in Greece and the EU at a significant rate (Syria, Palestine, Türkiye, Afghanistan, Iraq, Iran, Somalia, Cameroon, Mali and Democratic Republic of Congo). The majority of the alleged victims are unregistered asylum seekers who reported that their personal data have never been recorded by the Greek Authorities and that they were informally and forcibly returned to Türkiye. The report also flags the cases of 6 Turkish nationals unregistered asylum seekers with a political persecution in Türkiye, who were directly pushed back to their country of origin without any assessment of their international protection needs. According to the “National Mechanism”, “[t]hese incidents constitute a direct violation of the principle of non-refoulement, which is the cornerstone of international protection of asylum seekers and refugees”.<sup>72</sup> In the same report, and among the 43 alleged victims, 5 were already asylum seekers in Greece and 5 recognised refugees in Greece. The latter five alleged victims were deprived of their international protection status, already granted to them by the Greek State.

In 2023, the practice of *refoulements* continued to be used as a “front-line” tool of Greece’s migration policy, which has been quoted as a “*de facto general policy*” of “*pushbacks at land and sea border*” by the UN Special Rapporteur on the Rights of Migrants in a 2022 report<sup>73</sup>, to halt the flow of refugees and to deter others from attempting to irregularly cross the borders into the country. The practice is a permanent eventuality for people attempting to cross the borders according to testimonies, media coverage and reports. Serious incidents of alleged *refoulements* have been reported in which arbitrary removal of people residing on the mainland (mainly Thessaloniki) or on the islands were carried out.

In addition, the European Parliament delayed the approval of Frontex’s budget in 2021,<sup>74</sup> and rebuked the agency for failing to respond to its previous recommendations<sup>75</sup>. In a 2022 report, the European Parliament’s Budgetary Control Committee found that *Frontex ‘did not evaluate its activities in Greece, even though reports by institutions of Member States, the Council of Europe, and the United Nations show that the Agency was carrying out operations in sections where simultaneously, fundamental rights violations were taking place’*.<sup>76</sup>

At the 20-21 June 2023 Warsaw-based Frontex’s Board Meeting, which took place soon after the tragic Shipwreck of Pylos,<sup>77</sup> Jonas Grimheden, the head of the Fundamental Rights Office, recommended the suspension of Frontex’s activities in Greece, based on Article 46 of the agency’s regulations, which applies

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<sup>72</sup> Ibid. page 5 of the report

<sup>73</sup> Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, *Human rights violations at international borders: trends, prevention and accountability*, 26 April 2022, para.32, available at: <https://bit.ly/3VNoYpV>.

<sup>74</sup> ECRE, *Frontex: MEPs Vote to Refuse Approval of Budget, Commission “Shocked” by OLAF Report but Confident in Management Board as Agency Calls Misconduct “Practices of the Past” NGOs Finds No Difference*, 21 October 2022, available at: <https://bit.ly/3grKgH2>.

<sup>75</sup> “There are unresolved issues in recruitment and financial management, as well as in its operations in fighting illegal immigration and cross-border crime, and MEPs ask for further improvements. For this reason, MEPs in the report, finally adopted by 27 votes to 2 against and 1 abstention, ask for part of the Frontex 2022 budget to be frozen, to make it available only once the agency has fulfilled a number of specific conditions. These include recruiting 20 missing fundamental rights monitors and three deputy executive directors who are sufficiently qualified to fill these positions, setting up a mechanism for reporting serious incidents on the EU’s external borders and a functioning fundamental rights monitoring system”. See European Parliament, Press Release: *EP committee asks for part of Frontex budget to be frozen, 27 September 2021*, available at: <https://bit.ly/3vJtviz>.

<sup>76</sup> Committee on Budgetary Control, *Report on discharge in respect of the implementation of the budget of the European Border and Coast Guard Agency for the financial year 2020 (2021/2146(DEC))*, A9-0110/2022, 6 April 2022, available at: <https://bit.ly/43AQ5Fx>, p. 11.

<sup>77</sup> “As a Frontex drone was to patrol the Aegean on the same day, the agency offered to provide additional assistance ahead of the planned and scheduled flight. The Greek authorities asked the agency to send the drone to another search and rescue incident south off Crete with 80 people in danger. The drone, after attending to the incident south off Crete, flew to the last known position of the fishing vessel. The drone arrived at the scene four hours later at 04:05 (UTC) in the morning, when a large-scale search and rescue operation by Greek authorities was ongoing and there was no sign of the fishing boat. No Frontex plane or boat was present at the time of the tragedy”. See Frontex, *Frontex statement following tragic shipwreck off Pylos*, 16 June 2023, available at: <https://bit.ly/3VSdvpf>. See also, BBC, *Greece ignored offer to monitor migrant boat, says EU border agency*, 23 June 2023, available at: <https://bit.ly/3TUkdZg>.

to "violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist."<sup>78</sup>

In a 23 August 2023 Press release, a group of experts of the U.N. Human Rights Council stated that: "We urge Greece to take steps to ensure a transparent and impartial investigation into allegations of violations of the principles of non-refoulement and non-discrimination and of the right to life involving Greek law enforcement personnel, including the Hellenic Coast Guard, and border violence."<sup>79</sup>

Later on 1<sup>st</sup> December 2023, the Fundamental Rights Office of Frontex published a serious incident report about the Pylos shipwreck which, which concluded that "there was reasonable certainty that persons aboard *Adriana* were threatened by grave and imminent danger and required immediate assistance. ...The Greek authorities appeared to have delayed the declaration of SAR operation until the moment of the shipwreck when it was no longer possible to rescue all the people on board, deployed insufficient and inappropriate resources considering the number of persons aboard *Adriana*, and failed to make use of the resources offered by Frontex. Fundamental Rights Office regrets that it was not given relevant information by the Greek authorities in response to its enquiry but expects to receive the results of two ongoing national judicial proceedings, as well as the Greek Ombudsman enquiry".<sup>80</sup>

### Pushbacks at land borders

In relation to pushbacks at land borders,<sup>81</sup> the Special Rapporteur on the human rights of migrants has noted that, in addition to 'increased militarisation of the Evros land border ... which has effectively resulted in preventing entry and in the summary and collective expulsion of tens of thousands of migrants and asylum seekers', there have been allegations that 'pushbacks are also reportedly carried out from urban areas, including reception and detention centres'.<sup>82</sup> In a report issued in April 2022, the Special Rapporteur on the human rights of migrants stated that '[i]n Greece, pushbacks at land and sea borders have become de facto general policy'.<sup>83</sup>

On 21 February 2022, UNHCR expressed its concerns regarding recurrent and consistent reports from Greece's land and sea borders with Türkiye. At least three people are reported to have died since September 2021 in the Aegean Sea, including one in January 2022, while almost 540 reported incidents of informal returns by Greece have been recorded since the beginning of 2020.<sup>84</sup> The International Organisation for Migration (IOM) has also been alarmed by increasing migrant deaths and continuous reports of pushbacks at the border between Greece and Türkiye.<sup>85</sup> Regarding pushbacks on land, in June 2022 a journalistic investigation<sup>86</sup> reported that the Greek police were using foreigners as "slaves" to

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<sup>78</sup> Le Monde, *Frontex threatens to suspend its activities in Greece*, 26 June 2023, available at: <https://bit.ly/49oCN1k>.

<sup>79</sup> UN Human Rights Council, Press release: Greece: UN experts call for safe, impartial border policies and practices, 23 August 2023, available at: <https://bit.ly/4a1AtTW>.

<sup>80</sup> The FRO Frontex Report dated on 1 December 2023, page 16, available at: <https://bit.ly/3xjxX7Y>.

<sup>81</sup> ECRE, *Greece: MEPs Confront Commission Officials over Pushbacks, People on the Move Again Caught in the Stand-off with Türkiye in the Evros Region*, 9 June 2023, available at: <https://bit.ly/3qqFSgk>.

<sup>82</sup> Special Rapporteur on the human rights of migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and sea*, 12 May 2021, available at: <https://bit.ly/3WvA941>, para. 55.

<sup>83</sup> United Nations, *Report of the Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, Human rights violations at international borders: trends, prevention and accountability*, A/HRC/50/31, available at: <https://bit.ly/4eHO68L>, para 32.

<sup>84</sup> UNHCR, *News Comment: UNHCR warns of increasing violence and human rights violations at European borders*, 21 February 2022, available at: <https://bit.ly/43jYnkL>.

<sup>85</sup> IOM, *IOM Concerned about Increasing Deaths on Greece-Türkiye Border*, 18 February 2022, available at: <https://bit.ly/3MIQtjS>.

<sup>86</sup> '...The Greek police are using foreigners as 'slaves' to forcibly return asylum seekers to Türkiye. In recent years there have been numerous accounts from the victims, as well as reports by human rights organisations and the media, stating that the men driving these boats speak Arabic or Farsi, indicating they are not from Greece. A months-long joint investigation with The Guardian, Le Monde, Der Spiegel and ARD Report München has for the first time identified six of these men – who call themselves slaves– interviewed them and located the police stations where they were held. Some of the slaves, who are kept locked up between operations, were forcibly recruited themselves after crossing the border but others were lured there by smugglers working with a gangmaster who is hosted in a container located in the carpark of a Greek police station. In return for their 'work' they received papers allowing them to stay in Greece for 25 days'. See Der

forcibly return asylum seekers to Türkiye, and who were alleged to have been operating mostly, in the region of Evros.

In Greece, many legal practitioners, included GCR, have resorted to litigating cases directly before the ECtHR or UN Committees, due to the ineffective procedure in domestic courts. As per a BVMN report, the policy of pushbacks seems *'to have contaminated the judiciary'*.<sup>87</sup> The majority of investigations connected to pushbacks have been closed by public prosecutors invoking lack of evidence. Many of these cases have been referred to the European Court of Human Rights (ECtHR) as domestic remedies were ineffective.<sup>88</sup>

Since March 2022, the Greek Council for Refugees (GCR) has represented 588 Syrian, 67 Turkish, 37 Iraqi, 24 Palestinian and 15 Afghan refugees, including many children, before the European Court of Human Rights, in 43 applications for interim measures (Rule 39), requesting to be granted humanitarian assistance and access to the asylum procedure.<sup>89</sup> The Court granted the requested interim measures for all cases and ordered the Greek government not to remove the refugees from the country's territory and, in the majority of the cases, to provide them with food, water and proper medical care. The ECtHR also requested to be informed by the Greek government, amongst others, on whether the refugees have submitted an asylum application and whether they have access to the asylum procedure and to legal assistance. Some of the refugees of these 43 groups/cases have been formally arrested by the Greek authorities but most of them complain they have been pushed back to Türkiye. It should be noted that the refugees, even some from the groups that were formally arrested, complain that in the past they had been subjected to violent and informal return (pushback) to Türkiye from Greece. Furthermore, both with respect to those stranded on the islets and those on the Greek mainland, the refugees who complain that they have been pushed back to Türkiye, also complain that, in the majority of cases, they were informally arrested by the Greek authorities and informally detained in an unspecified detention facility in the Evros region. In all these cases, they complain that they were treated with violence, they were transferred to the Evros river bank from where they were forcibly boarded onto boats and pushed back to Türkiye.

Out of the total of 43 applications for Interim measures before the Court in the last two years, 22 have been granted since January 2023, with the majority of the victims alleging that they have still subsequently been pushed back to Türkiye. This highlights the frequency and periodicity of pushback cases and no change to the "de facto general policy"<sup>90</sup> of pushbacks at land borders. Illustratively, those 22 cases included the cases of

- ❖ an applicant who was already a recognised refugee in Greece and allegedly has been pushed back more than 20 times, one of them while holding a decision of interim measures by the Court
- ❖ a Turkish applicant who has been allegedly pushed back twice, once from Evros and once from Lesbos
- ❖ 10 applicants who have been granted two decisions of interim measures but, allegedly, both times were pushed back to Türkiye
- ❖ an asylum applicant who has been kidnapped from a central bus station in the city centre, detained in Greece, pushed back to Türkiye and then imprisoned in Türkiye because of political persecution
- ❖ Wand at least 6 cases, in which Turkish applicants have been pushed back and the majority of them imprisoned in Türkiye, because of political persecution.

*In parallel*, since January 2022, GCR has sent at least 390 written interventions to the Greek authorities for the cases of more than 3,227 refugees including many children, from Syria, Türkiye, Afghanistan, Iraq

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Spiegel, 'Greek Police Coerce Refugees to Commit Illegal Pushbacks', 30 June 2022, available at: <https://bit.ly/3lVTGfB> and Lighthouse reports, *We were slaves*, 28 June 2022, available at: <https://bit.ly/3MT1a1G>.

<sup>87</sup> BVMN, *BlackBook of Pushbacks*, December 2022, available at: <https://bit.ly/3ou1EPJ>, 14.

<sup>88</sup> *Ibid.*

<sup>89</sup> GCR, *Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks*, Updated on 19 April 2023, available at: <https://bit.ly/3Mx1Erw>.

<sup>90</sup> *Ibid.* See also, Special Rapporteur on the human rights of migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and sea*, 12 May 2021, available at: <https://bit.ly/3WvA94I>, para. 55.



and Palestine who entered Greece from the Evros region seeking international protection.<sup>91</sup> In approximately half of these interventions, the Greek authorities responded positively, locating them and providing them access to the procedures provided by law. Regarding the rest of the interventions, the Greek authorities either did not reply or replied that they had not been able to locate them. In some of these interventions, which concerned refugees mostly from Syria and Türkiye but also from Iraq and Afghanistan, GCR was later informed that the refugees were informally and forcibly returned to Türkiye, without being given the opportunity to submit an asylum application. For the rest of these interventions our organization had no information on the whereabouts of the refugees.

Greece is second in Europe in terms of the number of cases in which the European Court of Human Rights (ECtHR) granted interim measures for the period 2021-2023, according to statistics published by the Court.<sup>92</sup> According to these statistics, the Court has granted 177 interim measures related to Greece. Among them, and for the period 2022-2023, the ECtHR granted interim measures in 39 cases, represented by GCR, in which the applicants were facing a risk of refoulement from Greece.

Since 2019, GCR has filed more than 20 full applications before the ECtHR related to pushback cases, the majority of them connected to land pushbacks in Evros, which are all pending before the Court. A number of these cases are included, inter alia, in GCR's report 'At Europe's borders: between impunity and criminalization', recently published and presented before the European Parliament.<sup>93</sup> In 2023, 39 individual pushbacks, whose victims were represented by GCR, have been also recorded in the Mechanism for Recording Incidents of Informal Forced Returns of the National Human Rights Commission, of which GCR is a member.

Since 17 July 2023, the wildfires of Evros<sup>94</sup> that were burning in different areas for more than two weeks created a dangerous environment also for asylum seekers that arrived in Greece in the same period. According to the Human Rights Watch Report on Greece of 2024, "[a]t least 20 asylum seekers reportedly died, including two children, during major forest fires in the Evros region in August, highlighting an additional risk to people on the move who are already facing violent pushbacks by authorities and attacks by vigilantes".<sup>95</sup> In Application no. 32629/23 - A.H. v. Greece and 8 other applications,<sup>96</sup> in which GCR submitted an application for interim measures that were granted on 28/8/2023, 9 Afghan applicants (including 5 unaccompanied minors, one only 9 years old) remained in a forest area near the wildfires in Evros region for five days.<sup>97</sup> The applicants went missing while the decision of the Court was pending and up to now GCR has no news or indications about the circumstances under which they disappeared. Greek Authorities replied that the applicants have not been located.

In its annual review of Greece for of the events of 2023, Human Rights Watch stated that *"during 2023, abuses against asylum seekers and migrants continued, including violent pushbacks, abuses in detention, and vigilante violence. The government also smeared and judicially harassed civil society groups working with asylum seekers and migrants"*.<sup>98</sup>

In a report published on 14 July 2023, a Working Group of the United Nations General Assembly flagged that it *"...received information concerning allegations that migrants in camps located in the Evros region had been hired as a form of private security and deployed in violent pushback operations. The Working Group is concerned about those allegations and urges the relevant authorities to investigate them. The*

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<sup>91</sup> Note: The term "written intervention" refers to a document that the lawyers of the asylum seeker(s) are preparing, undersigning and then sending to the competent authorities, after communication with the represented persons in need of humanitarian assistance and international protection. It usually contains personal information of the asylum seekers and information that could facilitate locating of the person.

<sup>92</sup> Rule 39 requests listed by respondent State processed by the Court in 2021, 2022 and 2023, available at: <https://bit.ly/4anePEU>.

<sup>93</sup> GCR, *At Europe's Borders: Between Impunity and Criminalization*, 2 March 2023, available in Greek at: <https://bit.ly/42pxqLJ>.

<sup>94</sup> BVMN, *Fires, Pushbacks and the Far Right: Misplaced Blame and the Mobilisation of Violence Against People on the Move in Evros*, Joint Statement of 24 August, 2023, available at: <https://bit.ly/3xmeKmm>.

<sup>95</sup> Human Rights Watch, *Greece: Events of 2023*, 2024, available at: <https://bit.ly/3U4Qf5P>.

<sup>96</sup> GCR Information note, case number 30.

<sup>97</sup> PRAB Report, September 2023, available at: <https://bit.ly/3J8QmqK>.

<sup>98</sup> Human Rights Watch, *Greece: Events of 2023*, 2024, available at: <https://bit.ly/3U4Qf5P>.

authorities should put measures in place to prevent any instances in which migrants could be hired or involved in that type of activity or other activities that involve labour or economic exploitation”.<sup>99</sup>

Among the pending cases before the ECtHR, in Application no. 35090/22 K.A. and Others v. Greece (interim measures granted on 20 July 2022), 50 Syrian refugees who were allegedly stranded on an islet in the Evros river, complained that they were pushed back from Greece to Türkiye after the Court’s decision. Most of them entered Greece again and found themselves stranded on the same islet once again.<sup>100</sup> These refugees also complained that a young girl had died on the islet from insect bites. After succeeding to reach the mainland on their own, they were formally arrested and registered on 15 August 2022. On 13 August, UNHCR stated that: ‘*We continue to be gravely concerned for the safety and wellbeing of some 40 people allegedly stranded on an islet at the Greece-Türkiye border. According to reports received a child has tragically already died. Unless urgent action is taken, we fear further lives remain at stake*’.<sup>101</sup> The full application before the Court has been submitted by GCR. This specific case attracted the media’s attention, public interest and provoked a “public debate” around the facts of the case with many press releases, interviews and statements before the Greek Parliament. However, the “case of 38” remains a pushback case<sup>102</sup> that the Greek State tries ‘to conceal in the public debate, by shifting the focus from the main issue which is the Greek State’s responsibility for the violent pushback operations. The Government continues to question the role of the Organisations that filed the interim measures before the ECtHR’<sup>103</sup>. The case was communicated<sup>104</sup> to the Greek and Turkish Government by the ECtHR on 17 April 2023. FRO of FRONTEX published a serious incident report<sup>105</sup> about the case, which concludes, inter alia, that “*regarding the allegations of pushbacks on ... the Fundamental Rights Office considers the reports of pushbacks by migrants as relatively credible...*”<sup>106</sup> In May 2024 GCR submitted its written Observations for this case before the ECtHR.

On 26 January 2023, the ECtHR delivered its judgment in the case of B.Y. v. Greece, application no. 60990/14,<sup>107</sup> which was represented before the Court by GCR, the Network of Social Support of Refugees and Immigrants and the Lawyers’ Group for the rights of Refugees and Immigrants. The Court ruled that there was a violation of Article 3 (the procedural limb of Article 3 in conjunction with Article 13) of the Convention. The case concerned<sup>108</sup> a Turkish national who alleged that he was forcibly removed from Athens, Greece, to Türkiye, despite his attempts to claim asylum on the grounds of his political opinion. The ECtHR, by a majority of 4 votes against 3, did not uphold the plea of violation of Article 3 in its substantive part because, despite the abundance of evidence submitted, the majority of the Court maintained reservations and ultimately concluded that it was impossible to admit the applicant’s presence in Greece during the period in question. The Court notes, however, that that failure stems to a large extent from the failure of the national authorities to carry out the thorough and effective investigation which they were required to carry out and to provide the necessary evidence. On the contrary, the three Members of

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<sup>99</sup> UN, *Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, 14 July 2023, available at: <https://bit.ly/49vOYsV>.

<sup>100</sup> About the islet’s territorial status, the Ministry of Defence stated in written that the islet is divided by a Greek-Turkish border line, thus creating a Greek and a Turkish part. See Official Letter-Response of the Greek Minister of Defense to the Hellenic Parliament, *Answer on the issue of ‘sovereignty on an islet in Evros’*, 7 October 2022, available in Greek at: <https://bit.ly/3BM8F1v> and GCR Press Release, *Δελτίο τύπου σε συνέχεια και της διευκρίνισης του συνωριακού καθεστώτος της νησίδας στον Έβρο*, 12 October 2022, available in Greek: <https://bit.ly/3IANwjs>.

<sup>101</sup> UNHCR News on X (Twitter), 13 August 2022, available at: <https://bit.ly/3ooj5kD>.

<sup>102</sup> Article of the Director of GCR publishes in ‘*Εποχή*’ on 08 January 2023, available in Greek at: <https://bit.ly/3BSbiP6> and <https://bit.ly/3WqB1YD>.

<sup>103</sup> See GCR report, *At Europe’s Borders: Between Impunity and Criminalization*, March 2023, available at: <https://bit.ly/3opKToW>.

<sup>104</sup> ECtHR, Application No. 35090/22 and 38444/22, K.A and others v. Greece and Turkey, 17 April 2023, available in French at: <https://bit.ly/3VKLL5M>.

<sup>105</sup> Final SIR Report dated on 20/12/2022, available at: <https://bitly.ws/3e4P8>

<sup>106</sup> *Ibid.*

<sup>107</sup> Decision available (in French) at: <https://bit.ly/45nE0oF>. See also ELENA, *ECtHR: Greece’s ineffective investigation into an asylum seeker’s removal to Türkiye violated Article 3*, 26 January 2023, available at: <https://bit.ly/45rVS1O> and GCR Press release available in Greek at: <https://bit.ly/43pnzqh>.

<sup>108</sup> ELENA, *ECtHR: Greece’s ineffective investigation into an asylum seeker’s removal to Türkiye violated Article 3*, 26 January 2023, available at: <https://bit.ly/45rVS1O>.

the Court, in a strong joint minority opinion, held that Greece should be condemned also on the substantive part of the violation of Article 3 ECHR.

In November 2023, via Circular 18/2023, the Deputy Prosecutor (*Αντιεισαγγελέας*) of the Supreme Court of Greece asked from public prosecutors to study the aforementioned decision, *inter alia* noting that “*the prompt, thorough/detailed, impartial and real/effective criminal investigation of any such case [...] greatly reduces the risk of adverse ECtHR rulings for our country*”.<sup>109</sup>

### Pushbacks at sea

In April 2022, a research was published on the involvement of Frontex in the pushbacks of at least 957 refugees between March 2020 and September 2021.<sup>110</sup> The report notes that ‘the term “prevention of departure” is commonly used to report practices better known as pushbacks, illegal under Greek, EU and international law. This was confirmed in interviews with several sources within Frontex as well as the Greek authorities.’

In July 2022, the ECtHR issued its long-awaited landmark judgment in the case of *Safi and others v. Greece* (also known as the “Farmakonisi case”),<sup>111</sup> which was supported by GCR, Refugee Support Aegean with the support of Pro Asyl, the Network of Social Support of Refugees and Immigrants, the Lawyers’ Group for the rights of Refugees and Immigrants and the Hellenic League for Human Rights. The case concerned the sinking of a fishing boat transporting 27 foreign nationals in the Aegean Sea in January 2014, off the island of Farmakonisi, resulting in the death of 11 people. According to the allegations of the applicants, the coastguard vessel was towing the fishing boat at very high speed in order to push the refugees back towards Turkish waters and this caused the fishing boat to capsize, which the Greek Authorities denies. The Strasbourg Court found a violation of the right to life, both due to the authorities’ failure to investigate such a significant case responsibly and effectively, and on account of actions that they should and could have taken to protect human lives and prevent the tragic incident. The Court also held that Coast Guard officers had inflicted degrading and inhuman treatment against shipwreck survivors that night. The judgment of ECtHR ‘vindicates the victims by awarding compensation from the Greek State and brings to light an issue systematically concealed in public discourse: push backs and systematic deterrence practices which put lives at risk on a daily basis in Evros and the Aegean’.<sup>112</sup>

In 2023, RSA,<sup>113</sup> Pro Asyl, GCR and ECRE filed Submissions to the Committee of Ministers of the Council of Europe regarding the execution of the *Safi* judgment (Farmakonisi Case). GCR and ECRE submit, *inter alia*, that the *Safi* case reveals a structural and complex problem, which cannot be considered an isolated incident and request the Committee of Ministers to place the *Safi* case under the enhanced supervision.<sup>114</sup>

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<sup>109</sup> Lawspot, “Καταδίκη της Ελλάδας στο ΕΔΔΑ για ποινική έρευνα μη ταχεία, διεξοδική/εμπεριστατωμένη, αμερόληπτη και πραγματική/αποτελεσματική (Εγκύκλιος ΕισΑΠ 18/2023)”, 6 November 2023, available in Greek at: <https://tinyurl.com/4vfhndru2>.

<sup>110</sup> DER SPIEGEL, together with Lighthouse Reports, the Swiss media outlets SRF and Republik and the French newspaper Le Monde spent months researching Frontex’s involvement in the Greek pushbacks. Following a request under the European Freedom of Information Act, the researchers succeeded in gaining access to the internal Frontex database and matching entries with photos and videos of pushback operations. The research reveals the full extent of Frontex support for Greek pushbacks in the Aegean Sea for the first time. See, SPIEGEL International, *Frontex Involved in Illegal Pushbacks of Hundreds of Refugees*, 28 April 2022, available at: <https://bit.ly/433Jkvs>. See also, Lighthouse reports, *Frontex, the EU Pushback Agency, Frontex’s internal database suggests the EU border agency involved in mass pushbacks*, 6 May 2022, available at: <https://bit.ly/3WpRXyg>.

<sup>111</sup> ECtHR, *Safi and others v. Greece*, application no 5418/15, 7 July 2022, available at: <https://bit.ly/45oTicG>

<sup>112</sup> Press Conference: Judgement from the European Court of Human Rights in *Safi and Others v Greece* (Farmakonisi), Written on 07/07/2022 with a short summary of the case, available at: <https://bit.ly/3OzXBfA> and GCR, *Vindication by the ECHR for Farmakonisi: Press conference on Monday, 11 July 2022*, available at: <https://bit.ly/3q61nmD>.

<sup>113</sup> RSA, *Beyond Farmakonisi: The responsibility of the Greek Coast Guard for human rights violations at sea*, 26 September 2023, available at: <https://bit.ly/3VYnl8K>.

<sup>114</sup> GCR, GCR and ECRE Submission to the Committee of Ministers of the Council of Europe regarding the execution of the *Safi* judgment (Farmakonisi Case), available at: <https://bit.ly/4aMaJWv>.

Forensic Architecture have reported more than 2,000 pushback incidents<sup>115</sup> within the last three years on their dedicated platform,<sup>116</sup> which allegedly occurred from 2020 to 2023 on the Greek islands,<sup>117</sup> connected to 55,445 victims of pushbacks. Among them, 24 persons were reported as dead and 17 as missing.

Illustratively, the following pushback incidents at sea were reported in 2023, documented and verified by Forensic Architecture:

- ❖ An incident that allegedly happened on 21 January 2023 on Samos, verified by FA, when “9 asylum seekers landed on the North-eastern shores of Samos island, where they hid. The next day, a group of masked men arrived, robbed the asylum seekers of their belongings, tied their hands with cable ties and transported them to a cove 30 minutes’ drive away. There, the masked men forced some of the asylum seekers to strip naked and beat them with batons. One of the persons beat was a pregnant woman. The masked commando then forced everyone on a Hellenic Coast Guard vessel and subsequently cast them adrift on a life raft with no engine. The HCG vessel created waves to move the life raft into Turkish waters. Later the same day, the group was found drifting on a life raft by the Turkish Coast Guard off the coast of Kuşadası, Aydın.
- ❖ An incident that allegedly happened on 13 January 2023 on Kos, verified by FA, when 23 asylum seekers on an inflatable boat were found drifting by the Turkish Coast Guard off the coast of Datça, Muğla.
- ❖ An incident that allegedly happened on 23 January 2023 on Lesbos, verified by FA, when 32 asylum seekers on an inflatable boat were found drifting by the Turkish Coast Guard off the coast of Dikili, İzmir.
- ❖ An incident that allegedly happened on 28 January 2023 on Lesbos, verified by FA, when 31 asylum seekers on two life rafts were found drifting by the Turkish Coast Guard off the coast of Dikili, İzmir.
- ❖ An incident that allegedly happened on 9 February 2023 on Rhodes, verified by FA, when 41 asylum seekers on an inflatable boat were found drifting by the Turkish Coast Guard off the coast of Fethiye, Muğla.
- ❖ An incident that allegedly happened on 15 February 2023 on Chios, verified by FA, when 10 asylum seekers on a life raft were found drifting by the Turkish Coast Guard off the coast of Karaburun, İzmir.

In relation to pushbacks at sea, Aegean Boat Report’s Annual Report for 2023 outlined that 1,451 boats carrying 38,993 people were apprehended by the Turkish Coast Guard and Police in 2023.<sup>118</sup> According to this report,<sup>119</sup> “[i]n 2023, people arriving has increased 240%, compared to 2022. 1.451 boats made it to the Greek islands, carrying 38.993 people. Boats arriving has increased 205% compared to 2022, when 476 boats arrived, carrying 11.496 people. 25.855 people has been illegally pushed back by Greek authorities. Total arrivals have increased 240% compared to 2022, and 800% compared to 2021. 3.506 boats started their trip towards the Greek islands in 2023, carrying a total of 100.406 people. 1.451 boats made the trip, carrying a total of 38.993 people, the rest, 2.055 boats, 61.413 people, were picked up and arrested by the Turkish Coast guard and Police”. In January 2024, in the annual report with incidents in 2023, Aegean Boat Report is mentioning<sup>120</sup> that in 2023 “in 2023 Aegean Boat Report have registered 904 pushback cases in the Aegean Sea, involving 25.855 children, women and men who tried to reach safety in Europe. 20%, 5.137 people, had already arrived on Greek territory, arrested, forced back to sea and left drifting in life rafts, illegally deported by the Hellenic Coast Guard (HCG), on orders from the Greek government, so far there has been no reaction from the EU on these illegal actions. Almost 45% of all boats picked up by Turkish coast guard in 2023 had been pushed back by Greek authorities”.

<sup>115</sup> Efyn, *Forensic Architecture/Forensis, Μεγάλη αύξηση των επαναπροωθήσεων μέσα σε έναν χρόνο*, 19 January 2024, available at: <https://bit.ly/3xodhvA>.

<sup>116</sup> Forensic Architecture, platform available at: <https://bit.ly/41W0slW> and <https://bit.ly/4d3kSAn>.

<sup>117</sup> Article (in Greek) published on 15.7.2022 in ‘Ethnos’, Πασχάλης Γαγάνης, ‘Έρευνα Forensic Architecture: Πάνω από 1.000 επαναπροωθήσεις στο Αιγαίο σε 2 χρόνια - «Ξυλοδαρμοί, κλοπές ακόμα και ρίψη στη θάλασσα με χειροπέδες»», available (in Greek) at: <https://bit.ly/3MRg9Xm>.

<sup>118</sup> Aegean Boat Report, *Annual Report 2023*, available at: <https://bit.ly/437xzEU>.

<sup>119</sup> Ibid.

<sup>120</sup> Aegean Boat Report, *Annual Report for 2023*, January 2024, available at: <https://bit.ly/437xzEU>.

On 19 May 2023, the New York Times (NYT) published video footages of an alleged pushback from the island of Lesbos, which allegedly took place in the midday hours of 11 April 2023. Amongst others, EU Home Affairs Commissioner Ylva Johansson in an interview<sup>121</sup> said that “What seems to be in these videos is a deportation”, adding that she had no reason to doubt the footage obtained by the New York Times and called on the Greek authorities to conduct a full and independent investigation into the reported incident. The Greek Prime Minister, in an interview to CNN,<sup>122</sup> had committed to investigating the incident, describing it as an “completely unacceptable practice”. NTA appears<sup>123</sup> to have been requested by the European Commissioner to activate an investigation on the incident, even if this authority has been repeatedly criticised for its ineffectiveness in investigating similar incidents. In a Joint NGO Statement dated on 21 June 2023, 21 organizations are stating that there is “*No monitoring of fundamental rights violations in Greece without independent and effective mechanisms*”,<sup>124</sup> a statement that was done following the European Commission request<sup>125</sup> to the Greek authorities for an investigation of a push back of refugees<sup>126</sup> by the Hellenic Coast Guard on Lesbos island, documented by the New York Times.<sup>127</sup> On 27 July 2023, in a joint submission to the Prosecutors of the Piraeus Naval Court, the First Instance Court of Mytilene and the Supreme Court Prosecutor, 28 civil society organisations called<sup>128</sup> for an effective investigation into potential criminal acts committed in relation to what was published on 19 May 2023 by the New York Times (NYT).

In November 2023, Médecins Sans Frontières/Doctors Without Borders (MSF) published a report,<sup>129</sup> which “*calls on the Greek authorities to investigate reports of hundreds of missing migrants and allegations of people being threatened, abducted, and ill-treated*”. MSF based its report on the testimonies of 56 patients and information gathered between August 2021 and July 2023 on Lesbos<sup>130</sup> and Samos. MSF are also reporting that “*Since we started providing emergency medical assistance to people arriving by boat to Lesbos in June 2022, we have been unable to find approximately 940 people who were never found at the reported location*”.<sup>131</sup> MSF calls for a permanent end to pushbacks at borders, for an independent monitoring system to be set up on the Aegean islands, and for search and rescue operations to be stepped up at sea.<sup>132</sup>

On 16 January 2024, the ECtHR issued a decision and a press release with the title “*When firing several times at a motorboat transporting individuals illegally towards Greece, coastguards used force that was not “absolutely necessary” within the meaning of Article 2 of the Convention*”.<sup>133</sup> The case concerned a serious gunshot wound sustained by a member of the applicants’ family on 22 September 2014 near the island of Pserimos, when a vessel was intercepted transporting people illegally to Greece. Under the procedural aspect of Article 2, the Court noted that there had been numerous shortcomings in the investigation conducted by the national authorities; this had led, in particular, to the loss of evidence, and

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<sup>121</sup> POLITICO, *EU’s Johansson slams Greece over “deportation” of migrants*, 24 May 2023, available at: <https://bit.ly/3TJSJ1k1>.

<sup>122</sup> Greek Government, *Prime Minister Kyriakos Mitsotakis’ interview on CNN, with journalist Christiane Amanpour*, 23 May 2023, available at: <https://bit.ly/43PTTDQ>.

<sup>123</sup> Kathimerini, *Μεταναστευτικό: Έρευνα από την Εθνική Αρχή Διαφάνειας για το βίντεο από τη Λέσβο*, 25 May 2023, available in Greek at: <https://bit.ly/3xExAF6>.

<sup>124</sup> Amnesty International, *Joint NGO Statement: No monitoring of fundamental rights violations in Greece without independent and effective mechanisms 21 June 2023*, available at: <https://bit.ly/3vJolml>.

<sup>125</sup> Public announcement on “X” available at: <https://bit.ly/3Jc7ps3>.

<sup>126</sup> The Times verified the footage, taken on the Greek island of Lesbos on April 11, using a range of tools including metadata analysis and geolocation. Times reporters also tracked down the migrants involved in the incident and interviewed them at a detention facility in coastal Türkiye last month. Available at: <https://bit.ly/3xqyJQJ>.

<sup>127</sup> The Report of New York Times is available at: <https://bit.ly/49oQwFe>.

<sup>128</sup> GCR, *Intervention of 28 organisations to competent Prosecutors on the pushback incident published by the New York Times*, 27 July 2023, available at: <https://bit.ly/3xqRLq1>.

<sup>129</sup> MSF, *Pushbacks, detention and violence towards migrants on Lesbos*, 9 November 2023, available at: <https://bit.ly/4aNY9WY>.

<sup>130</sup> See also, Reuters, *Asylum-seekers in Greece face violence, pushbacks -aid group MSF*, 2 November 2023, available at: <https://bit.ly/3xrHkme>.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> ECtHR, Application No. 3566/16, *Alkatib and others v. Greece*, 16 January 2024, available in French at: <https://bit.ly/3PV48RU>. See also the ECtHR Press Release of 16 January 2024, available at: <https://bit.ly/43OWz4T>.

had affected the adequacy of the investigation.<sup>134</sup> Among other things, it had been impossible to determine whether or not the use of potentially fatal force was justified in the particular circumstances of the case. Under the substantive aspect of Article 2, the Court noted, firstly, that the respondent State had not complied with its obligation to introduce an adequate legislative framework governing the use of potentially lethal force in the area of maritime surveillance operations. It then considered that the coastguards, who could have presumed that the boat being monitored was transporting passengers, had not exercised the necessary vigilance in minimising any risk to life. The coastguards had thus used excessive force in the context of unclear regulations on the use of firearms. The Court considered that the Government had not demonstrated that the use of force had been “absolutely necessary” within the meaning of paragraph 2 of Article 2 of the Convention.

GCR represents survivors in two other pushback cases, which occurred after the individuals had already landed on the islands Lesvos and Kos. The first one concerns the case of a group of asylum seekers, who were pushed back to Türkiye upon their landing on Lesvos island and after entering a government-run quarantine facility for refugees in Megala Therma in February 2021; In both cases, the victims of the violent pushback operations – some of them in the first case – managed to re-enter Greece in 2022 and subsequently, filed an official complaint before the Public Prosecutor.<sup>135</sup> The criminal investigation about the alleged incident in Megala Therma reached an end and GCR submitted a full Application before the ECtHR in December 2023. The second case is pending before the competent public prosecutors and the second one concerns the kidnapping and illegal forced return of two recognized refugees who were legally residing in the Eastern Aegean Island of Kos.

### **Criminalisation of Human Rights Defenders (HRD) and organisations connected with pushbacks**

In May 2022, it was reported that four organisations were under criminal investigation for potential involvement with smuggling networks, because they notified the authorities about the location of newly arrived migrants and requested that they be provided with assistance and access to asylum procedures in Greece.<sup>136</sup> In the following year, no investigations took place but it created an increasingly hostile environment in the field of HRDs’ work in Greece and a widespread fear of criminalisation.<sup>137</sup>

After the above, on 29 July 2023, two more NGOs operating in Lesvos were targeted in a Greek Police Press Release.<sup>138</sup> From the title of the Press release “*Finding the action of an organized criminal network, consisting of two (2) criminal organizations, whose members were systematically active in facilitating the illegal entry of foreigners into the Greek territory through the island of Lesvos*” and the content of the announcement<sup>139</sup> that was targeting NGOs which were going to arrival locations of third country nationals with the “*pretext of providing them with humanitarian-medical assistance*”.<sup>140</sup> After this development, new discussions on smear campaigns against HRD started,<sup>141</sup> as up to date no individual and member of an NGO acting on Lesvos has been prosecuted.

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<sup>134</sup> Ibid.

<sup>135</sup> For more details on the cases, See GCR, *at Europe’s Borders: Between Impunity and Criminalization*, March 2023, available at: <https://bit.ly/3opKToW>.

<sup>136</sup> Among others, News.IT, *Evros: Investigation into the activities of NGOs and their connection with illegal immigrant networks*, 29 May 2022, available in Greek at: <https://bit.ly/4208ryu>.

<sup>137</sup> ‘I also note the sense of pervasive fear that is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalization of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants’: UN Special Rapporteur on human rights defenders, *Statement on preliminary observations and recommendations following official visit to Greece*, 22 June 2022, available at: <https://bit.ly/3q1bwAZ>.

<sup>138</sup> Greek Police, *The activity of an organized criminal network, consisting of two (2) criminal organizations, whose members were systematically active in facilitating the illegal entry of foreigners into Greek territory, through the island of Lesvos, was identified*, 29 July 2023, available in Greek at: <https://bit.ly/3VR4Bbd>.

<sup>139</sup> Ibid. “(d) The members of Non-Governmental Organizations (NGOs), at the same time as they were informed about the migratory arrival, went to the areas where the newly arrived third country nationals were located, on the **pretext** of providing them with humanitarian-medical assistance”.

<sup>140</sup> Kathimerini, *Λέσβος: Έρευνα για κύκλωμα διακίνησης παράτυπων μεταναστών με εμπλοκή μελών ΜΚΟ*, 29 July 2023, available in Greek at: <https://bit.ly/49ppbmt>.

<sup>141</sup> Racist Crimes Watch, *Greece: New smear campaign against NGOs working with asylum seekers*, P. Dimitras, 20 July 2023, available at: <https://bit.ly/4aosag4>.

Soon after, in June 2022, the UN special rapporteur on human rights defenders, Mary Lawlor, carried out an official country visit to Greece from 13 to 22 June 2022 following an invitation from the Greek government. In her statement on preliminary observations, it was noted that:

‘the nature of cooperation between the Government and civil society, and the overall perception about the role of civil society and human rights defenders in Greece, has undergone a significant shift since 2019. Since then, human rights defenders have found it increasingly difficult to carry out their work, especially in fields that might be considered controversial or geopolitically complicated or sensitive. This is particularly tangible in relation to those who defend the rights of asylum seekers, migrants and refugees, including those providing humanitarian assistance, legal aid, participating in search and rescue operations and documenting pushbacks. While previously human rights defenders in these areas had enjoyed an overall conducive environment for carrying out their activities, the current policy framework, that emphasises ‘security’ over humanitarian assistance, has led to a number of constraints’; ‘[A] sense of pervasive fear [...] is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalisation of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants’.

As highlighted by the UN Special Rapporteur on human rights defenders, ‘human rights defenders promoting and protecting the rights of migrants, asylum-seekers and refugees, including human rights lawyers, humanitarian workers, volunteers and journalists, have been subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree’.<sup>142</sup>

The Campaign for Access to Asylum,<sup>143</sup> in an announcement on 5 October 2022, underlined that:

‘The authorities’ systematic use of misinformation regarding “false reports on pushbacks” aims to cover up illegal practices and to target and put pressure on people and organisations that report these incidents’ and added that ‘...The incident in Evros highlighted the problem of pushbacks in a multitude of ways. Systematic propaganda and misinformation about these practices, which often result in the loss of human lives, is aimed at concealing the truth, obscuring the consequences (deaths, drownings, violence, etc.) and, of course, at targeting lawyers, organisations, as well as media and journalists who report these incidents’.

Later, in January 2023, regarding charges against 24 human rights defenders who were helping to rescue migrants in distress at sea off Lesbos island, the UN Special Rapporteur on the human rights of migrants stated that: *‘[t]rials like this are deeply concerning because they criminalise life-saving work and set a dangerous precedent. Indeed, there has already been a chilling effect, with human rights defenders and humanitarian organisations forced to halt their human rights work in Greece and other EU countries’*.<sup>144</sup> On 13 January 2023, the espionage charges were dropped by the Court.<sup>145</sup> On 30 January 2024,<sup>146</sup> in a new trial, the accused were found not guilty on the misdemeanours and the criminal proceedings for the felonies remain pending.

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<sup>142</sup> Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor - Visit to Greece (A/HRC/52/29/Add.1), available at: <https://bit.ly/43n0hS1>, para. 114.

<sup>143</sup> Joint Press Release of 16 civil society organisations, *Asylum Campaign (Καμπάνια για το Άσυλο) - It is the Greek Government’s responsibility to immediately put a stop to informal forced returns (pushbacks): They endanger human lives and breach the state’s international obligations*, 5 October 2022, available at: <https://bit.ly/3MTm7qM>.

<sup>144</sup> ‘My concerns were compounded by accounts I received during my country visit to Greece in June 2022 detailing how fear of criminalisation has spread among human rights defenders working in the field of migration in the country. As I underlined in my preliminary observations following the visit, solidarity should never be punished and compassion should never be put on trial’: UN Special Rapporteur on Human Rights Defenders, *Human rights defenders on trial in Greece*, 9 January 2023, available at: <https://bit.ly/3MVFVtp>

<sup>145</sup> France24, *Greek court drops spying charges against migrant rescuers*, 13 January 2023, available at: <https://bit.ly/3BQKu1R>.

<sup>146</sup> The Press Project, *«Μεγάλη νίκη στη Μυτιλήνη: Αθώοι για τα πλημμελήματα οι 16 ανθρωπιστές – «Μετά από 6 χρόνια, επιτέλους αποδόθηκε δικαιοσύνη»*, 30 January 2024, available in Greek at: <https://bit.ly/3xDvzsP>.

Prosecutions of activists working with migrants continued in 2022 and 2023, against the founders of the Greek Helsinki Monitor (GHM)<sup>147</sup> and of the Aegean Boat Report (ABR), who were both subject to investigations and charged by Greek judicial authorities on the island of Kos for ‘forming or joining for profit and by profession, a criminal organisation with the purpose of facilitating the entry and stay of third country nationals into Greek territory.’<sup>148</sup> On 2<sup>nd</sup> June 2023, the Asylum Campaign requested in a press release requested to stop a) the prosecution of those persons and organizations operating in the context of their role as human rights defenders, against violations even by state authorities and institutions, b) the systematic propaganda and disinformation against persons and organizations that provide protection to asylum seekers, refugees and vulnerable persons in general, c) To promote the investigation of all complaints that have been brought to the attention of the competent authorities and concern incidents of illegal redeployments and c) to stop the phenomenon of violations of fundamental human rights that are systematically carried out at the borders of Greece, as well as Europe.<sup>149</sup>

On 11 September 2023, the Athens Bar Association published its interpretation of the Greek Code of lawyers on legal aid provision to newly arrived third-country nationals (TCN) who seek asylum in Greece. The Association states that:<sup>150</sup>

- ❖ *“According to the Code, lawyers are public officials and collaborators of the judiciary who defend fundamental rights, comply with the rules of ethics and maintain confidentiality for the benefit of their clients”.*
- ❖ *“The lawyers may provide legal assistance to irregularly arriving TCNs to initiate asylum applications. The possibility to apply for asylum cannot be exercised if TCNs do not have the necessary legal assistance during which they can communicate freely and appoint the lawyer as their representative”.*
- ❖ *“Migrants often request lawyers not to disclose their location to the authorities as they fear being returned to their countries. In such cases, insofar as they have assumed the responsibility to provide legal assistance, lawyers are bound by their duty of confidentiality even if they have not yet met the TCN in person. In such cases, they cannot be considered as assisting in the unlawful entry of TCNs as lawyers retain the freedom to handle cases without being identified with their clients and their files and may not be subjected to instructions incompatible with the nature of their work”.*

The Athens Bar Association concludes that it is not allowed to search on physical or digital files of the lawyers or of the phone communications between lawyers and the illegally-entering third country nationals, if those are necessary to fulfil their order under the scope of practising their profession as lawyers.

### **Legal access to the territory (beyond family reunification)**

Legal gateways to enter Greece are not provided to persons in need of international protection, nor does Greece issue visas on humanitarian grounds. The only exception was in 2021, when Greece accepted 819 Afghan nationals due to ‘the country’s commitment to provide humanitarian assistance to Afghan nationals in danger’ following the Taliban’s arrival to power.<sup>151</sup>

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<sup>147</sup> “Some medias have publicized “what appears to be leaked information on the alleged investigation, in some cases alongside a picture of Dimitras. The money laundering case reportedly concerns “funding Dimitras received, mainly from the EU, to support human rights causes, that was used for other purposes than those claimed,” according to a Kathimerini [BP1] article. Dimitras said the only EU funds his organization receives, as published on the European Commission’s website, are for the fight against hate speech and called these claims unfounded “slander.” See, Human Rights Watch, Greece: Smear campaign against rights activists, 19 June 2023, available at: <https://bit.ly/43OSihL>. See, also, Asylum Campaign (Καμπάνια για το Άσυλο) Press Release, *The attempt to silence human rights defenders continues. What remains to be decided are its accompanying measures*, 22 December 2022, available at: <https://bit.ly/45BXpT4>.

<sup>148</sup> Human Rights Watch, *Greece: Migrant Rights Defenders Face Charges, End Judicial Harassment of Migrant Rights Activists; Respect Asylum Obligations*, 26 January 2023, available at: <https://bit.ly/43ifSlx>.

<sup>149</sup> Asylum Campaign (Καμπάνια για το Άσυλο), Press Release, 2 June 2023, available in Greek at: <https://bit.ly/3U9yxhz>.

<sup>150</sup> Greece: Athens Bar Association’s interpretation of the Greek Bar Code on guaranteeing the lawyer-asylum applicant relationship without criminalisation, 12 September 2023, available at: <https://bit.ly/3Ja4TCL>.

<sup>151</sup> MoMA, Press release, 23 November 2021, available in Greek at: <https://bit.ly/3yzVCzV>.



## 2. Reception and identification procedure

### 2.1 The European Union policy framework: ‘hotspots’

The “hotspot approach” was first introduced in 2015 by the European Commission in the European Agenda on Migration, as an initial response to the exceptional flows of refugee arrivals to the EU.<sup>152</sup> Its adoption was part of the immediate action to assist Member States which were facing disproportionate migratory pressures at the EU’s external borders and was presented as a solidarity measure.

The initial objective of the “hotspot approach” was to assist Italy and Greece by providing comprehensive and targeted operational support, so that the latter could fulfil their obligations under EU law and swiftly identify, register and fingerprint incoming migrants, channel asylum seekers into asylum procedures, implement the relocation scheme and conduct return operations.<sup>153</sup>

In order to achieve this goal, EU Agencies, namely the EUAA (previously EASO), Frontex, Europol and Eurojust, worked alongside the Greek authorities within the hotspots.<sup>154</sup> The hotspot approach was also expected to contribute to the implementation of the temporary relocation scheme, proposed by the European Commission in September 2015.<sup>155</sup> Therefore, hotspots were envisaged initially as reception and registration centres, where Greek authorities, with the support of EU Agencies would “*swiftly identify, register and fingerprint incoming migrants*”, following which “[t]hose claiming asylum [would] be immediately channelled into an asylum procedure”.<sup>156</sup> Interestingly, at the time, nowhere was it specified or mandated that said “channelling” (or referral) was to be made within the premises of the initial arrival/reception facility (i.e., the RICs or “hotspots”). Instead, the initial Greek response to the “hotspot approach” seems to refer to ‘[a] headquarter Hotspot in Piraeus [...] where asylum seekers [would have been] received from different arrival points’, which if implemented as such, could have perhaps led to the establishment of a more functional reception system.<sup>157</sup>

Five hotspots, under the legal form of First Reception Centres – later known as Reception and Identification Centres (RIC) – were established in Greece on the islands of Lesbos, Chios, Samos, Leros and Kos. In 2021, on Samos, Leros and Kos, the RICs were converted into ‘Closed Controlled Access Centres of Islands (CCAC) and new EU facilities were established.<sup>158</sup> The CCAC in Samos was inaugurated on 18 September 2021 and the ones in Leros and Kos on 27 November 2021.<sup>159</sup> Since then the operation of the old RIC facilities in Samos and Leros was halted. On Kos, despite the inauguration of the new centre, new infrastructures remained non-operational until August 2022 and the facilities of the old RIC remained in use.

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<sup>152</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015, available at: <https://bit.ly/3TrnbG3>.

<sup>153</sup> *Ibid.*

<sup>154</sup> *Ibid.*

<sup>155</sup> European Commission, Council Decisions (EU) 2015/1523 of 14 September 2015, OJ 2015, L239/146 and 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ 2015, L248/80, available at: <https://bit.ly/43T44rt>.

<sup>156</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, *op.cit.* p. 6.

<sup>157</sup> European Commission: Migration and Home Affairs, *The Hotspot approach to managing exceptional migratory flows*, 11 September 2015, available at: <https://tinyurl.com/2kxbbt9y>; See also GCR, *Limits of Indignation: the EU-Turkey Statement and its implementation in the Samos ‘hotspot’*, 10 April 2019, available at: <https://tinyurl.com/4h3szes5>.

<sup>158</sup> Ministerial Decision 25.0 / 466733/15-12-2021, according to which the RIC of Samos, Leros and Kos are renamed as ‘Closed Controlled Access Centres of Islands (C.C.A.C.I.)’, See also Art. 8 par. 4 L.4375/2016, see also EU Commission, DG Migration and Home, *Annual Activity Report 2020*, <https://tinyurl.com/4ctyva7w>.

<sup>159</sup> MoMA, *The Minister for Migration and Asylum, Mr. Notis Mitarachi, inaugurated the new closed controlled access centres in Samos*, 18 September 2021, available at: <https://bit.ly/3DHQzOe>; MoMA, N. Mitarachi: *Today in Leros and Kos, as a few days ago in Samos and in a few months in Chios and Lesbos, we inaugurate the new Closed Controlled Access Centres, with a view to the future. Images we can all recall from the period 2015-2019 belong definitely to the past*, 27 November 2021, available at: <https://bit.ly/3j61isb>.

In November 2022, the existing facilities in Lesbos and Chios were converted into CCACs,<sup>160</sup> while in both the islands, the construction of two new EU funded CCAC has been planned.<sup>161</sup> In Chios, no construction work took place during 2023; the examination of the application for interim measures, lodged by the State in order for the latter to exercise a right to access the area of construction, is still pending before the Chios Court of First Instance.<sup>162</sup>

Reception and Identification Centres (RIC) and Closed Controlled Access Centres of Islands (CCACI)			
Hotspot	Start of operation	Capacity	Occupancy
<b>Lesvos</b>			
RIC (Moria)	October 2015	Non-operational	Non-operational
CCAC (Mavrovouni)	September 2020 <sup>163</sup>	8,000	5,390
CCAC (Vastria)	Under construction	Estimated 5,000	Non-operational
<b>Chios</b>			
CCAC (Chalkios)	February 2016	1,014	1,082
CCAC (Akra Pachi – Tholos)	Under construction	Estimated 1,800	Non-operational
<b>Samos</b>			
RIC	March 2016		
CCAC	18 September 2021	3,650	3,890
<b>Kos</b>			
RIC	June 2016		
CCAC	27 November 2021	2,923	3,360
<b>Leros</b>			
RIC	June 2016		
CCAC	27 November 2021	2,150	2,192
<b>TOTAL</b>		<b>17,737</b>	<b>15,914</b>

Source: Ministry of Migration and Asylum, National Situation: Migrant and Refugee Issue, Situation as of 31 December 2023, available at <https://tinyurl.com/3sa33edh>

It was initially planned that the five hotspot facilities would have a total capacity of 7,450 places.<sup>164</sup> According to official data however, their capacity had increased to 13,338 places by the end of 2020. In 2021, the construction of the CCACs increased capacity to 15,934 places. In 2023, the nominal capacity of Samos, Kos and Leros CCACs,<sup>165</sup> as well as of the CCAC of Lesbos<sup>166</sup> appeared increased overnight in the statistics of the Ministry, reaching the total capacity of the CCAC to 17.737 places. However, doubts are raised as to whether the capacity of the infrastructures has been actually increased or whether this new capacity includes spaces not intended and suitable to accommodate people.<sup>167</sup> In 2023, new arrivals

<sup>160</sup> Article 12, Presidential Decree 77/2022- Gov. Gazette 212/A/17-11-2022

<sup>161</sup> European Commission, *Annual Activity Report 2020*, Directorate General for Migration and Home Affairs (DG HOME), available at: <https://tinyurl.com/2s3fvyb8>, p. 9.

<sup>162</sup> Ert News, *Χίος: Ματαίωση της εκδίκασής για τη Νέα Δομή στο Θόλος*, 20 September 2023, available in greek at: <https://tinyurl.com/3r7hpr6c>.

<sup>163</sup> A new facility in Kara Tepe (Mavrovouni) was established in September 2020 after Moria RIC burnt down. In November 2022, the RIC in Mavrovouni has been converted in CCAC. (Article 12, Presidential Decree 77/2022- Gov. Gazette 212/A/17-11-2022).

<sup>164</sup> European Commission, *Third Report on the Progress made in the implementation of the EU-Türkiye Statement*, COM(2016) 634, 28 September 2016, available at: <https://bit.ly/47GuGx0>.

<sup>165</sup> RSA, *Disgraceful living conditions in the 'state-of-the-art' Closed Controlled Access Centre (CCAC) of Samos*, 6 February 2024, available at: <https://tinyurl.com/465m7vnt>.

<sup>166</sup> According to the official statistics of MoMA, available in Greek at: <https://tinyurl.com/shmvzvru>, the nominal capacity of CCAC in Lesbos was 3.840 places on 16 September 2023. However, the day after, the nominal capacity of the structure appears to be 8000 places according to available statistics available in Greek at: <https://tinyurl.com/4rzcrkvz>.

<sup>167</sup> Joint statement on Samos, *"Not again in 2024: call for upholding human rights in Samos closed controlled access centre"*, 31 January 2024, available at: <https://tinyurl.com/296rcd82>.

have increased by 169% compared to 2022.<sup>168</sup> By the end of the year, the steep increase of arrivals starting in late summer 2023 resulted in severe overcrowding of the CCACs.<sup>169</sup>

In Lesbos, apart from the CCAC of Mavrovouni, the Controlled Temporary Accommodation Facility for asylum seekers of West Lesbos, which is located in the area of Megala Therma in West Lesbos (Kastelia), also operates as an autonomous structure since December 2020. It is noteworthy that the Administrator has been the only administrative staff in the facility. Until November 2022, the structure operated as a quarantine structure and since then as an informal first reception "waiting area" for people arriving on the northern side of the island. The nominal capacity of the structure is 352 persons however the actual capacity is 160 persons. At the end of March 2023, the structure had reached its capacity.<sup>170</sup> Newly arrived asylum seekers remained there for days, in some cases for more than two weeks, waiting in dire conditions to be transferred to the CCAC of Mavrovouni, without any official registration, without access to interpretation, legal or psychosocial assistance, without information on procedures and without the possibility to contact anyone outside the quarantine area, which could lead to arbitrary practices, such as pushback operations. Medical screening and NFIs were provided twice per week by MsF.<sup>171</sup> Since late May 2023, all newcomers, regardless of their entry point, were transferred upon arrival directly to CCAC of Mavrovouni.

Local communities, as well as local authorities have expressed their opposition against the creation of the new CCACI because they do not consider them necessary and because they have strong concerns both related to the degradation of the islands and the rights of newcomers. In Lesbos and Chios, several protests took place and citizens attempted to disrupt the construction of the centres.<sup>172</sup> In Leros and Kos, criticism against the construction of the new facilities was expressed not only by local communities but also by the local authorities. The Mayors of both islands refused to attend the inauguration of the new centres. In 2021, the local authorities of both Leros and Samos challenged<sup>173</sup> yet with no success<sup>174</sup> the construction of new centres.

In 19 August 2022, a Greek Council of State's decision paved the way for the continued construction of a new EU-funded closed controlled access centre in a 71,250 km<sup>2</sup> forest in Vastria, on Lesbos island. However, an application for suspension by the North Aegean Region and by local communities (Komi and N. Kydonia), regarding the access road to the structure of Vastria was accepted by the Commission of Suspensions of the Greek Council of State in temporary decision 199/2022-19/12/2022. This prohibited any construction until the final judgment of the court on the application for its annulment, as it was considered that the construction of the road would lead to irreversible destruction of the forest and impact the rare birdlife of the protected area.<sup>175</sup>

In August 2023, following an application submitted by the North Aegean Region, the Greek Council of State, in 1335/2023 decision,<sup>176</sup> annulled the authorisation approving the CCAC's construction project in Lesbos, due to lack of an environmental study. In the same judgement, the Council of State annulled the authorisation approving the intervention to the forest area for the construction of the road giving access

<sup>168</sup> MoMA, Information note reception and identification procedures, December 2023, available in Greek at: <https://tinyurl.com/2cw22ree>.

<sup>169</sup> Υπουργείο Προστασίας του Πολίτη, *Εθνικό Συντονιστικό κέντρο ελέγχου και επιτήρησης συνόρων (Ε.Σ.Κ.Ε.Ε.Σ.)*, *Εικόνα της Κατάστασης Νήσων Ανατολικού Αιγαίου της 31/12/2023*, 1 January 2024, available in Greek at: <https://tinyurl.com/yc44zc8a>.

<sup>170</sup> GCR, News from the field, 1 May 2023, available in Greek at: <https://tinyurl.com/3us999zx>.

<sup>171</sup> Médecins Sans Frontières, *Pushbacks, detention and violence towards migrants on Lesbos*, 25 May 2023, available at: <https://tinyurl.com/htk996p2>.

<sup>172</sup> Tvxs, *Χίος – Λέσβος: Μαχητικό «όχι» των κατοίκων στις προσφυγικές δομές – φυλακές*, 6 January 2022, available in Greek, <https://tinyurl.com/27xjwmuw>.

<sup>173</sup> CNN Greece, *Προσφυγικό: Στο ΣΤΕ ο δήμος Λέρου κατά της κατασκευής ΚΥΤ στο Λακκί*, 4 January 2021, available in Greek at: <https://bit.ly/3DFVT4y> and ECRE, *Greece: Significant Decrease of Arrivals – Chaos Continues*, 15 January 2021, available at: <https://bit.ly/37tbYPr>.

<sup>174</sup> Δημοκρατική, *ΣΤΕ, Απορρίφθηκε η αίτηση του Δήμου Λέρου για ακύρωση της απόφασης κατασκευής της νέας κλειστής δομής*, 9 June 2023, available at: <https://tinyurl.com/4mxvfhv4>.

<sup>175</sup> Commission of suspensions, Council of State, 19-12-2022, decision 199/2022, available in Greek at: <https://bit.ly/3Vdnva1>.

<sup>176</sup> Summary of Greek Council of State's the decision η\_1335/2023 available in Greek at: <https://tinyurl.com/5n88drdz>.

to the CCAC.<sup>177</sup> However, the Minister of MoMA declared that the Ministry has already taken all the necessary steps for the proper environmental classification and approval of the construction of the structure and its accompanying works and so, according to him, its construction is estimated to be finalized by spring 2024.<sup>178</sup> In Chios, no construction work took place in 2023. The examination of the application submitted by the State for the latter to exercise a right to access the area of the construction, is still pending before Chios Court of the First Instance.<sup>179</sup>

On **Samos** and **Leros**, the CCAC have been moved to different areas compared to where the previous RICs were located, namely in Zervou (Samos) and Lepida (Leros). Similarly, the new facilities under construction on Lesbos and Chios are located in different areas, namely in Plati – Vastria (Lesbos) and in Akra Pachi – Tholos (Chios). In **Kos**, the CCAC has been expanded in an area attached to the then-existing RIC located in Pyli.

The new structures have been placed in remote locations, isolated from urban areas with very poor connection to the main cities of each island. More specifically, the new centre in Samos is located 7km away from the city of Vathy, the new centre in Leros is 6km from the city of Agia Marina and the centre in Kos is 15km far away from the city of Kos. Similarly, the new centre in Lesbos is being constructed in an area which is 30km from the city of Mytilene and the planned facility in Chios, is located 11km from the city of Chios.<sup>180</sup>

Conditions prevailing in the old RICs, converted into CCACs, namely the existing structures in Lesbos and Chios have not improved and people continue to be hosted in degrading conditions. In the former Reception and Identification Centre (RIC) of Vial, renamed as “CCAC” in Chios, the conditions remain substandard. During 2023, the accommodation facilities were substandard and in need of maintenance and constant disinfections due to cockroaches, the food was of poor quality, and there was limited provision of interpretation services.<sup>181</sup> Moreover, the medical division of the RIS had no stable presence of doctor since March 2021. As a result, the vulnerability assessment procedure has been conducted principally by the nursing staff and Doctors of Medical Units of other CCACs or the Chios General Hospital, who were visiting the Chios CCAC only to sign vulnerability assessment documents and medical cards, without carrying out a substantive assessment of the medical condition of the asylum applicants, who were not considered to meet the vulnerability criteria.<sup>182</sup> Similarly, the former RIC in Lesbos, which has been converted into CCAC, remains completely inadequate due to extreme weather conditions prevailing, inaccessible and poor sanitation facilities, shortages of hot water, constant power cuts, poor quality of food and the increase in security incidents -including GBV incidents- despite significant police surveillance. Since mid- May 2023, food distribution by the RIS of Lesbos has been interrupted for recognized refugees and rejected applicants,<sup>183</sup> despite the explicit call of the EU Commissioner of Home Affairs to the Greek Authorities to ensure all persons, irrespective of their status, receive basic means of subsistence, notably, food and hygiene products.<sup>184</sup> During 2023, the medical and psychosocial division of the RIS in Lesbos has been understaffed, fact which- amongst others- affected the quality of the

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<sup>177</sup> TaNea, *Council of State: Invalid licensing of a structure in Plati – Vastria, Lesbos*, 9 August 2023, available in Greek at: <https://tinyurl.com/mpvj7xcv>.

<sup>178</sup> LesbosNews.Net, *Τι θα γίνει τελικά με την Βάστρια; Ι απαντά ο Υπουργός*, 19 October 2023, available in greek at: <https://tinyurl.com/sn4snjn5>.

<sup>179</sup> Ert News, *Chios: Discontinuation of the hearing for the New Structure in Tholos*, 20 September 2023, available in Greek at: <https://tinyurl.com/3x2w8sxy>.

<sup>180</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at <https://tinyurl.com/bdpc6byj>

<sup>181</sup> RSA, *Chios: What is happening today in the refugee structures on the Aegean islands*, May 2023, available at: <https://tinyurl.com/mnrvnyyh>.

<sup>182</sup> *Ibid.*

<sup>183</sup> Joint CSO letter, *Forced food insecurity at the Lesbos Closed Controlled Access Centre*, 15 June 2023, available at: <https://tinyurl.com/27n8k379>.

<sup>184</sup> Observatory of the Refugee and Migration Crisis in the Aegean, *EU Commissioner for Home Affairs, Ms. Ylva Johansson, issued a robust response to a joint open letter by organisations working in Greece*, 15 December 2021, available at: <https://bit.ly/3PUmiTN>.

vulnerability assessment procedures. Moreover, references for understaffing concerned also interpretation provision services.<sup>185</sup>

Similarly, the new CCAC are a cause for serious concern, despite the large amount of funding that was used for their construction. More specifically, the Commission granted the Greek Government €121 million in November 2020 for the construction of CCACI on Samos, Kos, and Leros. In April 2021, the grant agreement was amended to include additional funding (€155 million) for the CCACI on Chios and Lesbos. The grant agreement was further amended in September 2021, and in February 2022.<sup>186</sup> According to the MoMA's website, €43 million were granted for the construction CCAC of Samos, €39,36 million for the construction of CCAC of Kos, and €35.3 million for the CCAC of Leros.<sup>187</sup>

Conditions prevailing in the new centres appeared to be better than the ones in the RICs in terms of infrastructure. Yet in practice, the majority of the facilities hailed as significant improvements to residents' quality of life by the European Commission and the Greek authorities –such as restaurant and communal areas, shared kitchens, IT 'labs', distribution points for non-food items, as well as playgrounds and recreational areas– have never been used.<sup>188</sup> This coupled with the shortcomings in the provision of basic services and material conditions resulted in a severe deterioration of living conditions in the CCAC. More specifically, in all CCACs, shortcomings in access to sanitary facilities and items, provision of hot water, as well as in the maintenance of the containers used for accommodation have been observed. Issues with food quality and quantity persist.<sup>189</sup> In the CCAC of Samos, the supply of running and drinking water has not been stable.<sup>190</sup> Living conditions in the new CCACs further deteriorated as a result of the steep increase of arrivals during the second semester of 2023 and the induced overcrowding of the facilities. Due to lack of adequate spaces to accommodate people, newly-arrived individuals were placed in common spaces (i.e. restaurants, classrooms), without beds, mattresses, blankets, etc. In some cases, single parent mothers were placed in common spaces along with single men, where no privacy could be granted.<sup>191</sup>

Increasing reports by civil society organisations since the inauguration of CCACs to date, indicate prison-like conditions in the CCACs.<sup>192</sup> As the European Ombudsperson has recently pointed out, the new structures on the islands "are, rather, reminiscent of detention facilities", raising doubts as to "how respect for human dignity and protection of the best interests of the child and of vulnerable individuals can be ensured" in these facilities". Also, the European Ombudsman suggested that the Commission should carry out a fundamental rights impact assessment of the centres, with a view to identifying measures to mitigate any potential risks.<sup>193</sup> The Ministry of Asylum and Migration focuses on the 24/7 surveillance and security control mechanisms of the new centres, while at the same time, the residents face practices of illegal *de facto* detention and arbitrary restrictions of personal liberty and freedom of movement and have limited access to healthcare. In fact, the Medical Unit of the facility in Samos did not include any doctors, despite

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<sup>185</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at <https://tinyurl.com/bdpc6byj>

<sup>186</sup> European Commission DG Migration and Home Affairs, *Annual Activity Report 2021 Annexes*, 2 May 2022, <https://tinyurl.com/3985fuc5>,

<sup>187</sup> MoMA, *R.I.C & C.C.A.C.*, <https://tinyurl.com/4a4kb3f3>.

<sup>188</sup> Greek Council for Refugees & Oxfam International, *Submission Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands Case OI/3/2022/MHZ*, November 2022, available at: <https://tinyurl.com/5ebxr3rh>

<sup>189</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at <https://tinyurl.com/bdpc6byj>

<sup>190</sup> Syriza, *Βουλευτές ΣΥΡΙΖΑ-ΠΣ: Επείγουσα ανάγκη για παροχή τρεχούμενου και πόσιμου νερού στους εργαζόμενους και τους φιλοξενούμενους στην ΚΕΔ Σάμου*, 14 september 2023, available at in Greek at: <https://tinyurl.com/355wj3ay>.

<sup>191</sup> GCR, *Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures*, 14 December 2023, available at: <https://tinyurl.com/mr36kzwr> and Civil Society Joint Statement, *Not again in 2024: Call for upholding human rights in the Samos Closed Controlled Access Centre*, 31 January 2024, available at: <https://bit.ly/3vKHJje>.

<sup>192</sup> Civil Society Joint Statement, *Unlawful detention and worsening conditions: Over 4,000 asylum seekers unlawfully detained on Samos and Lesbos*, 19 September 2023, available at: <https://tinyurl.com/727ubb4r>.

<sup>193</sup> European Ombudsman, *Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 7 June 2023, <https://tinyurl.com/3v82dswd>, para. 48

the extremely poor public primary health services on the island.<sup>194</sup> Similarly, there was no doctor on permanent basis in the CCAC in Kos throughout 2023, despite the fact that the local hospital has long-standing shortages in basic specialties such as GP and cardiologist,<sup>195</sup> and there is only one operating ambulance for the island.<sup>196</sup>

In view of the above, the European Court of Human Rights has granted Interim Measures, pursuant to Rule 39 of the Rules of the Court, with regards to reception conditions in the new Closed Controlled Access Centers (CCACs) in Samos and Kos. More specifically:

- ❖ In September 2023, the European Court of Human Rights (ECtHR) granted interim measures in a case concerning a single mother residing at the Samos CCAC along with her six-month old baby with a serious heart condition, ordering the Greek Government to ensure that the baby will be provided with medical treatment and that both the baby and mother will be provided with suitable accommodation.<sup>197</sup>
- ❖ On 12 December 2023, the European Court of Human Rights (ECtHR) has granted Interim Measures with regards to two Afghan women and their five minor children, residing at the Closed Controlled Access Centre (CCAC) of Kos in absolutely inadequate conditions, ordering the Greek authorities to ensure that the Applicants "*have full access to reception conditions which respect human dignity and take into account their multiple vulnerabilities*."<sup>198</sup>
- ❖ On 5 February 2024, the European Court of Human Rights granted Interim Measures with regards to a single woman asylum seeker and her infant child, who resided in inhuman conditions in the Samos Closed Controlled Access Centre (CCAC) ordering Greek authorities to provide safe and suitable accommodation.<sup>199</sup>

### Hotspot transformation following the EU-Türkiye statement

In March 2016, the adoption of the highly controversial EU-Türkiye Statement, committing 'to end the irregular migration from Türkiye to the EU',<sup>200</sup> brought a transformation of the so-called hotspots on the Aegean islands.<sup>201</sup>

With the launch of the EU-Türkiye Statement, hotspot facilities turned into closed detention centres. People arriving after 20 March 2016 through the Aegean islands, and thus subject to the EU-Türkiye Statement, were automatically *de facto* detained within the premises of the hotspots in order to be readmitted to Türkiye in case they did not seek international protection or their applications were rejected, either as inadmissible under the [Safe Third Country](#) or [First Country of Asylum](#) concepts, or on the merits.<sup>202</sup> Following criticism by national and international organisations and actors, and due to the limited

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<sup>194</sup> RSA, *Disgraceful living conditions in the 'state-of-the-art' Closed Controlled Access Centre (CCAC) of Samos*, 6 February 2024, available at: <https://tinyurl.com/y6mx8msn>;

<sup>195</sup> EfSyn, *The [NHS] on the islands is collapsing: Without an GP at the Hippocrates Hospital in Kos*, 23 June 2023, available in Greek at: <https://tinyurl.com/56ywtxww>.

<sup>196</sup> Newslt, *Kos: 63 year old woman died on her way to the hospital on the back of a truck - No ambulance was available*, 6 June 2023, available in Greek at: <https://tinyurl.com/bdhnmnk8>.

<sup>197</sup> HRLP, *Interim measures granted by the ECtHR for a woman and her daughter on Samos*, 20 September, 2023, available at: <https://tinyurl.com/2p3u7bcp>

<sup>198</sup> ECtHR, *M.K. and Others v. Greece* [Application no. 42416/23]. See also, GCR, *Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures*, 14 December 2023, available at: <https://tinyurl.com/478cmr8w>

<sup>199</sup> ECtHR, *H.T. and M.T. v. Greece* [Application no.2868/24]. See also IHaveRights, *Degrading conditions in Samos CCAC: The European Court of Human Rights grants Interim Measures*, 7 February 2024, available at: <https://tinyurl.com/3m959tz6>.

<sup>200</sup> European Council, *EU-Türkiye statement*, 18 March 2016, available at: <http://bit.ly/1VjZvOD>.

<sup>201</sup> The Greens / European Free Alliance in the European Parliament, *The EU-Türkiye Statement and the Greek Hotspots, a failed European pilot project in refugee policy*, June 2018, available at: <https://bit.ly/3sYrduD>.

<sup>202</sup> In this respect, it should be mentioned that on 28 February 2017, the European Union General Court issued an order, ruling that 'the EU-Türkiye Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.' Therefore, 'the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States'.<sup>202</sup> The order became final on 12 September 2018, as an appeal lodged before the Court of Justice of the European Union (CJEU) was rejected. See, General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*,

capacity to maintain and run closed facilities on the islands with a high number of people, the practice of blanket detention was largely abandoned from the end of 2016 onwards. It has been replaced by a practice of systematic geographical restriction, *i.e.*, an obligation not to leave the island and reside at the hotspot facility, which is imposed indiscriminately to every newly arrived person (see [Freedom of Movement](#)).

L.4825/2021<sup>203</sup> replaced Article 8(4) L.4375/2016<sup>204</sup> as follows:

‘The Regional Services of the Reception and Identification Services are:

- a. the Reception and Identification Centres (RIC),
- b. the Controlled Structures for Temporary Accommodation of asylum seekers and
- c. the Closed Controlled Access Centres, which are structured and have the responsibilities of RIC and within which, in separate spaces, facilities of temporary accommodation and the special detention facilities provided in Art. 31 of L. 3907/2011 operate.

Within the premises of the above-mentioned facilities, special areas dedicated to people belonging to vulnerable groups as per article 14(8) are provided<sup>205</sup>

Although the Rule of Procedure of Closed Controlled Access Centres on the islands does not provide for a blanket prohibition of exit, the regime of *de facto* detention has been reintroduced in practice since the implementation of the CCAC. According to the Asylum Code, this ‘restriction of liberty’ which amounts to *de facto* detention, is provided by way of exception and shall not exceed 25 days.<sup>206</sup> However, on arrival, all newcomers remain under arbitrary restriction of liberty until they are registered by the RIS. During this time, people are denied exit from the CCAC and are in most cases restricted in the so-called ‘waiting areas’, in which dire and substandard condition prevail. Civil society actors active on the field, report that they have consistently identified cases of applicants who were deprived of their liberty for more than 25 days (see below, 2.2.1 Reception and Identification procedures on the islands).

From April 2016 to 31 March 2020, 2,140 individuals had been returned to Türkiye on the basis of the EU-Türkiye Statement, of whom, 801 were returned in 2016, 683 in 2017, 322 in 2018, 195 in 2019 and 139 in 2020. No readmission operations have taken place since 30 March 2020.<sup>207</sup> In total, between 21 March 2016 and 31 March 2020, Syrian nationals accounted for 404 persons (19%) of those returned. 43 of them were returned on the basis that their asylum claims were found inadmissible at second instance based on the “safe third country” concept. Moreover, of all those returned, 23% had not expressed the will to apply for asylum or withdrew their asylum application in Greece.<sup>208</sup>

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Order of 28 February 2017. See also, General Court of the European Union’s press release, 28 February 2017, available at: <https://bit.ly/46KLkdk>. See also, CJEU, Cases C-208/17 P, C-209/17 P and 210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

<sup>203</sup> Article 28 L.4825/2021 on ‘Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permit and procedures for granting international protection, provisions of competence of the Ministry of Immigration and Asylum’.

<sup>204</sup> According to Article 8(4) L. 4375/2016, ‘[t]he Regional Services of the Reception and identification Service shall be: a. The Reception and Identification Centres (RIC) b. Mobile Reception and Identification Units (MRIU) c. The Open Temporary Reception Structures for third-country nationals or stateless persons who have applied for international protection, d. The Open Temporary Accommodation Structures for third-country nationals or stateless persons: who are under a return procedure in accordance with article 22 of law 3907/2011, or with paragraph 3 of this article in conjunction with article 30 of law 3907/2011 or whose removal has been postponed in accordance with Article 24 of law 3907/2011 or who fall under the provisions of article 76 para. 5 or article 78 or article 78a of law 3386/2005’. Article 30(4) L. 4686/2020 amended article 8(4) L.4375/2016 and foresaw the establishment of the so called ‘Closed Temporary Reception Facilities’ for asylum seekers against whom a detention decision has been issued and the ‘Islands’ Closed Controlled Facilities’, for asylum seekers, persons under a removal procedure and persons under geographical limitation. Article 8(4) L. 4375/2016 as amended by article 30(4) L. 4686/2020 was applied until the entry into force of L. 4852/2021 on 4 September 2021.

<sup>205</sup> as amended by Article 62 L.4939/2022.

<sup>206</sup> Article 40 (a) L.4939/2022.

<sup>207</sup> HIAS- Refugee Support Aegean- Greek Council for Refugees, *Asylum Case Law Bulletin*, Vol.2/2023, December 2023, Decision No. IP/21911/2023, issued on 18 July of 2023 by the 20<sup>th</sup> Appeals’ Committee, p.7, available in Greek at: <https://tinyurl.com/255ucet2>.

<sup>208</sup> UNHCR, *Returns from Greece to Türkiye, in the framework of the EU - TUR Statement*. Source: Greek Ministry of Citizen Protection, 31 March 2020, available at: <https://bit.ly/3xtx5hp>.

According to the Türkiye 2023 Report of the European Commission, returns under the EU-Türkiye Joint Declaration have not resumed since March 2020.<sup>209</sup> It should be noted that both Greek authorities and the European Commission<sup>210</sup> have requested Türkiye to resume returns based on the EU-Türkiye Joint Declaration.<sup>211</sup> However, despite the suspension of readmissions to Türkiye since March 2020, Greece included Türkiye in the national list of Safe Third Countries and thus the applications lodged by individuals falling under the scope of the JMD 42799/2021 (FEK B' 2425/07.06.2021) were still examined in the context of the [Safe third country concept](#) and the [Fast-Track Border Procedure](#).

On 2 February 2023, the Council of State issued its decision 177/2023,<sup>212</sup> on an annulment application lodged by the Greek Council for Refugees (GCR) and Refugee Support Aegean (RSA) against the aforementioned JMD. In its decision, the Council of State formulated preliminary questions to the CJEU regarding the national list which includes Türkiye as a safe third country for asylum seekers originating from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, whose applications are therefore being rejected as inadmissible. In particular, the Council of State submitted preliminary questions regarding the 'influence on the legality of the national list of the fact that, for a long period (over 20 months), Türkiye has refused the readmission of applicants for international protection, while at the same time it is not clear whether the possibility of a change in Türkiye's attitude in the near future has been taken into account'.<sup>213</sup>

On 14 March 2024 the preliminary questions referred by the Plenary Session of the Council of State (CoE) in its judgment No. 177/2023 concerning the inclusion of Türkiye in the national list of Member States of the European Union national list of 'safe third countries' (JMD 42799/2021), was be discussed at an oral hearing before the Court of Justice of the European Union (CJEU) in Luxembourg on 14 March 2024.<sup>214</sup> At the hearing, the legal representatives of GCR and RSA focused on how the inclusion of Türkiye in the national list of "safe third countries" practically "consolidates the policy of abdication of responsibility for the protection of refugees in Europe".<sup>215</sup>

## 2.2 The domestic framework: Reception and Identification Centres

The 2010 Greek Action Plan on Asylum already provided that third-country nationals should be subjected to first reception procedures upon entry. The competent authority to provide such services was the First Reception Service (FRS), established by L 3907/2011, as described in the previous country report.<sup>216</sup> On 3 April 2016, in the light of the EU-Türkiye statement of 18 March 2016, the Greek Parliament adopted a law 'on the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EU, provisions on the employment of beneficiaries of international protection and other provisions. This reform was passed through L 4375/2016.<sup>217</sup>

L 4375/2016 partially attempted to regulate the establishment and function of the hotspots and the procedures taking place thereat. However, national legislation has failed to effectively regulate the

<sup>209</sup> European Commission, Commission Staff working document, Türkiye 2023 Report, Brussels, 08-11-2023, available at: <https://tinyurl.com/yb43pj8m>.

<sup>210</sup> European Commission, *Key Findings of the 2023 Report on Türkiye*, Brussels, 8 November 2023, available at: <https://tinyurl.com/wdv96598>.

<sup>211</sup> EUAA, *The EU- Turkey Statement, Asylum report 2022, Return of former applicants*, available at: <https://tinyurl.com/r3nxu7r2>.

<sup>212</sup> Greek Council of State, Decision 177/2023, 3 February 2023, available in Greek at: <https://bit.ly/3GvzhGI>.

<sup>213</sup> RSA, *Greek Council of State: Preliminary questions regarding Turkey as a safe third country*, 6 February 2023, available at: <https://bit.ly/4156P7u>; RSA, *Key points on the Greek Council of State ruling on the "safe third country" concept*, 17 February 2023, available at: <https://bit.ly/3RriH0o>.

<sup>214</sup> GCR RSA Joint Press Release, *Hearing before the Court of Justice of the European Union on Thursday 14 March on the preliminary questions of the Greek Council of State regarding Turkey as a "safe third country"*, 13 March 2024, <https://tinyurl.com/yjpf4w2>

<sup>215</sup> ECRE, *Greece: More Crossings and Pushbacks in the Aegean Sea — One of "Moria6" Loses Appeal Against Arson Conviction — NGO Report on Sexual and Gender-based Violence in Asylum Policy on Lesbos — Concerns about Lack of Accommodation on Crete Following Large Number of Arrivals — CJEU Hearing on Designation of Türkiye as a "Safe Third Country"*, 15 March 2024, available at: <https://bit.ly/3VOMdzq>.

<sup>216</sup> AIDA, *Country Report Greece 2022 update*, June 2023, p.42 available at: <https://tinyurl.com/m5wkkj3>

<sup>217</sup> L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: <http://bit.ly/2kKm2cu>.



involvement of the EU Agencies, for example Frontex agents. Following the enactment of L 4375/2016, the FRS was succeeded by the Reception and Identification Service (RIS). The RIS is currently subsumed under the General Secretariat for Reception of Asylum Seekers of the Ministry of Migration and Asylum.<sup>218</sup> The IPA, in force since 1 January 2020, regulated the functioning of the RICs and the conduct of the reception and identification procedure in a similar way. Under the Asylum Code,<sup>219</sup> the relevant regulations were codified to include Closed Controlled Access Centre of Islands (CCACI).<sup>220</sup> Article 38 of the Asylum Code, provides that: ‘All third-country nationals and stateless persons who enter without complying with the legal formalities in the country, shall be submitted to reception and identification procedures.’<sup>221</sup> Reception and identification procedures are carried out in five stages:<sup>222</sup>

1. Information on rights and obligations, transfer to other facilities, the possibility to seek protection or voluntary return, in a language the person understands or in a language that a person may reasonably be supposed to understand and in an accessible manner, by the Information Unit of the Reception and Identification Centre (RIC) or the Closed Controlled Access Centre (CCAC) or in case of mass arrivals, by the Police, Coast Guard or Armed Forces;<sup>223</sup>
2. Channelling to reception and identification procedures: According to the law, newly arrived persons should be directly transferred to a RIC or CCAC, where they are subject to a 5-day “restriction of freedom within the premises of the centre” (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>224</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it”.<sup>225</sup> Such a restriction is ordered on the basis of a written, duly motivated decision;<sup>226</sup>
3. Registration and medical checks, including **identification** of vulnerable groups;<sup>227</sup>
4. Referral to the asylum procedure: As soon as asylum applications are made, the Special Rapid Response Units (*Ειδικά Κλιμάκια Ταχείας Συνδρομής*) of the Asylum Service distribute the cases according to country of origin. Subsequently, they proceed to prioritisation of applications according to nationality (see **Prioritised Examination**);<sup>228</sup>
5. Further referral and transfer to other reception or detention facilities depending on the circumstances of the case.<sup>229</sup>

### 2.2.1 Reception and identification procedures on the islands

At the early stages of the implementation of the EU-Türkiye Statement, individuals arriving on the Eastern Aegean islands and thus subject to the Statement, were systematically and indiscriminately detained. Such measure was imposed either *de facto*, under the pretext of a decision restricting the individual's freedom within the premises of the RIC for a period of maximum 25 days, or under a deportation decision together with a detention order. This differs from the “geographical restriction” on the island, mentioned below.

In practice, those arriving on the Eastern Aegean islands and falling under the EU-Türkiye Statement are subject to a “restriction of freedom of movement” decision issued by the Head of the RIC. The decision is

<sup>218</sup> Article 1 PD, 18/2020 (ΦΕΚ 34/Α/19-2-2020), available in Greek at: <https://bit.ly/3wfJUHh>.

<sup>219</sup> Asylum Code, available in Greek: <https://bit.ly/3Ek1hfp>.

<sup>220</sup> See also art. 12 of PD 77/2023 on the Establishment of Closed Controlled Access Centers.

<sup>221</sup> Article 38(1) Asylum Code.

<sup>222</sup> Article 38(2) Asylum Code.

<sup>223</sup> Article 39 Asylum Code.

<sup>224</sup> Article 40 Asylum Code.

<sup>225</sup> *Ibid.*

<sup>226</sup> Article 40(a) Asylum Code.

<sup>227</sup> Article 41 Asylum Code.

<sup>228</sup> Article 42(c) Asylum Code.

<sup>229</sup> Article 43(a) Asylum Code.

revoked once the registration by the RIC is completed. A ‘restriction of freedom of movement’ is imposed on newcomers, preventing applicants from exiting the RIC until their registration and identification by the RIS. At the same time, a removal decision “based on the readmission procedure” and a pre-removal detention order are issued by the competent Police Directorate upon arrival, parallel to the decision of the Head of the RIC. The removal decision and detention order are suspended by a “postponement of deportation” decision of the General Regional Police Director. The latter decision imposes a geographical restriction, ordering the individual not to leave the island and to reside – in most cases – in the RIC or another accommodation facility on the island until the end of the asylum procedure.

Once the asylum application is lodged, the same geographical restriction pursuant to Decision 1140/2019 of the Minister of Citizen Protection, is applied by the Asylum Service as well as by the RIS, by including relevant marking on the International Protection Applicant Card. For more details on the geographical limitation on the Greek Eastern Aegean Islands, see [Reception Conditions](#), [Freedom of movement](#). It is due to this practice of indiscriminate and *en masse* imposition of the geographical limitation measures to newly arrived persons on the islands that a significant deterioration of the living conditions on the islands has occurred.

Following criticism by national and international organisations and actors, and due to limited capacity to maintain and run closed facilities on the islands with high population numbers, the “restriction of freedom” as a *de facto* detention measure was no longer applied in the RICs, as of the end of 2016, with the exception of Kos.

Although the Rule of Procedure of Closed Controlled Access Centres on the islands does not provide for a blanket prohibition of exit, the regime of *de facto* detention has been reintroduced in practice since the implementation of the CCAC. According to the Asylum Code, this ‘restriction of liberty’ which amounts to *de facto* detention shall not exceed 25 days from the day of arrival in the RIC or CCAC. Also, the ‘restriction of liberty’ is provided in the Law by way of exception.<sup>230</sup> However, upon arrival, newcomers are placed under arbitrary restriction of liberty until their registration by the RIS is concluded. Until then, people are denied exit from the CCAC and in most cases they are restricted in the so-called ‘waiting areas’, in which dire and substandard condition prevail. According to GCR observations, in certain cases, the imposition of restriction of liberty was not waived before the exhaustion of 25-days period, although the registration of newcomers might have been concluded.

By way of illustration, between 1 July – 31 August 2023, over 4,000 people were brought to the Closed Controlled Access Centers (CCACs) on Samos and Lesbos and placed in unlawful detention while awaiting registration of their asylum application.<sup>231</sup> Since summer 2023, due to increased arrivals, delays and shortcomings related to the registration procedures by the RIS, in many cases applicants remained under arbitrary restriction of their liberty for more than 25 days. In Samos, legal organisations have consistently identified cases of applicants who were deprived of their liberty for more than 25 days, sometimes even up to 58 days.<sup>232</sup> According to testimonies collected by GCR, in numerous cases, the waiting period within which newcomers remained confined until registration exceeded 25 days also in Lesbos and Kos.

Decisions imposing the ‘restriction of liberty’ shall be issued by the Head of the RIS within five days from the arrival. However, it has been observed that these are not always issued and/or notified as provided by the Law to the *de facto* detained persons. Moreover, in a considerable number of cases, said decisions are issued days after the detention has begun. In addition, the decisions mention as day of arrival the day of issuance of the decision, therefore extending in practice the time a person may be confined. Moreover, applicants are often asked to sign orders that are back-dated.

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<sup>230</sup> Article 40 (a) L.4939/2022

<sup>231</sup> Joint CSO Statement, *Unlawful detention and worsening conditions: Over 4,000 asylum seekers unlawfully detained on Samos and Lesbos*, 19 September 2023, available at: <https://tinyurl.com/3w8natsr>.

<sup>232</sup> Joint CSO Statement, *Not Again in 2024 Call for Upholding Human Rights in the Samos Closed Controlled Access Centre*, 31 January 2024, available at: <https://tinyurl.com/w37h9mfb>.

More specifically, according to a 19 September 2023 Joint Statement by Civil Society Organisations (CSOs),<sup>233</sup> '[l]egal actors on Samos have observed that the provision of these 5 and 20 day "restriction of freedom" orders, frequently is issued after the detention period has already begun. For example, on Samos, legal actors have recorded that the 5-day restriction of freedom orders were retroactively provided to applicants on the same day that they were given the 20-day restriction order. Applicants reported being forced to sign orders that were back-dated, masking the reality that they had been detained for several days without documents. [...] Legal actors on Lesbos have observed that newly arrived asylum seekers are de facto detained in the Lesbos CCAC without the issuance and/or notification of any specific decision ordering detention or restriction of their freedom. They are issued with neither a detention order within 5 days of arrival, nor an extension for up to 25 days, as required by Article 40(a) Asylum Code. Asylum seekers are issued only a piece of paper documenting the simple registration of their will to seek asylum, containing only their basic biographic data. After their asylum claims have been fully registered, asylum seekers are free to leave the Lesbos CCAC, but this process is unacceptably delayed, in some cases for more than three weeks, in violation of Article 69(2) of [Asylum Code].'

According to testimonies of applicants collected by the Greek Council for Refugees, in Kos, decisions imposing a 'restriction of liberty' were issued days after the actual arrival and confinement of the newcomers and were not notified to them. No issuance and/or notification of decisions of 'restriction of liberty' was taking place for the persons confined in the Controlled Temporary Accommodation Facility for asylum seekers of West Lesbos.

The detention conditions of the 'waiting areas' are grounds for sharp criticism. According to the aforementioned Joint CSO Statement, as of September 2023, 'On Samos, hundreds of people have been restricted to the "Temporary Accommodation Zones" of the CCAC, the sections of the CCAC that were previously used for Covid-19 quarantine. These enclosed zones are composed of accommodation containers only and are surrounded by layers of barbed wire fences. Police provide 24/7 surveillance and residents are only permitted to exit for urgent medical needs or for interviews with the authorities. Mobile phones are taken by the police upon arrival for between 7-10 days, resulting in a mass violation of applicants' privacy and leaving new arrivals with no possibility to reach out for medical or legal support to non-governmental actors operating outside the CCAC.'

As newly arrived persons are detained within subsections of the CCAC, they do not have access to any services, including medical support. This is compounded by the fact that no doctor is permanently present in Samos CCAC to provide medical care to people who have just arrived, resulting in hundreds of asylum seekers being unable to access medical, including psychological support. The potential repercussions for this lack of access are significant, as asylum seekers are frequently exposed to violence *en route* and/or in their country of origin and present specific health vulnerabilities. This includes, for example, survivors of sexual violence and pregnant women, who may need urgent sexual and reproductive health care. Additionally, owing to the absence of healthcare and individual vulnerability assessments, applicants with non-communicable chronic diseases such as diabetes or cardiovascular conditions and communicable diseases risk remaining undetected or unable to seek medical treatment for several weeks after arrival.

On Lesbos, newly arrived persons are *de facto* detained inside the Lesbos CCAC, housed in large rubhalls. They can circulate throughout the CCAC, but are prohibited from leaving, except for specific medical emergencies or medical care, normally in coordination with Médecins Sans Frontières (MSF). Men, women, and children (including unaccompanied children and other vulnerable groups) are housed together in these rub-halls, without any privacy or safety measures to protect vulnerable individuals. As in Samos, there is 24/7 surveillance of the Lesbos CCAC by police both at the entrance and throughout the CCAC, and all the mobile phones of newly arrived persons are taken by police upon arrival for several days.

Conditions in these rubhalls are unacceptable. There are insufficient mattresses and beds meaning that people are forced to sleep on the ground. People *de facto* detained in these conditions have reported that

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<sup>233</sup> Joint CSO Statement, *Unlawful detention and worsening conditions: over 4,000 asylum seekers and unlawfully detained on Samos and Lesbos*, 19 September 2023, available at: <https://bit.ly/3VPTWxx>.

they do not have sufficient food or fresh water and are constantly hungry. There is also insufficient running water. Distribution of non-food items is slow or non-existent for new arrivals, leaving most new arrivals without proper shoes and only the clothing they arrived with to Lesvos (for more, see [Conditions on the Eastern Aegean islands](#)).

Medical access is also severely limited. Newly arrived people have reported that they have been denied medical and psychological care by EODY, due to their lack of documentation in Greece, including persons with chronic medical issues. The vulnerability assessments are also delayed.<sup>234</sup>

In Lesvos, until late May 2023, people arriving at the Northern side of the islands were transferred to the Controlled Temporary Accommodation Facility for asylum seekers of West Lesvos where they remained confined until their transfer to the CCAC of Mavrovouni for registration. As stated already, until November 2022, the structure operated as a quarantine structure and since then as an informal first reception "waiting area" for people arriving on the northern side of the island. It is noteworthy that the Administrator has been the only administrative staff in the facility. The nominal capacity of the structure is 352 persons however the actual capacity is 160 persons. At the end of March 2023, the structure had reached its capacity.<sup>235</sup> Newly arrived asylum seekers remained there for days, in some cases for more than two weeks in dire conditions, waiting to be transferred to the CCAC of Mavrovouni, without any official registration, without access to interpretation, legal or psychosocial assistance, without information on procedures and without the possibility to contact anyone outside the quarantine area. Medical screening and NFIs were provided twice per week by MsF.<sup>236</sup> Since late May 2023, all newcomers were transferred upon arrival directly to CCAC of Mavrovouni regardless of their entry point.<sup>237</sup>

According to testimonies of applicants collected by the Greek Council for Refugees, in Kos, newcomers' freedom of movement used to be restricted to the premises of the old PRDC that were previously used for Covid-19 quarantine awaiting their registration and transfer to the designated accommodation sectors. As the arrivals increased since summer 2023, the population was also confined in other subsections of the old PRDC, in deplorable conditions, sleeping in destroyed containers, without adequate water, electricity, air conditioning, heating, mattresses and with leaking drains. During November and December 2023, communal areas, such as the restaurant of the new PRDC were also used as accommodation areas. According to testimonies, even after their registration, applicants who resided in the sections of PRDC were facing difficulties exiting freely the sections, despite holding an asylum seekers card. Newly arrived persons *de facto* detained had very limited access to services, including medical support. In many cases, applicants with non-communicable chronic diseases such as diabetes or cardiovascular conditions remained undetected or with very poor access to medical treatment even for several weeks after arrival, due to delays in registration procedures, *de facto* detention practices and the understaffing of health services in the CCAC. Despite efforts by RIS to separate single women, vulnerable persons and families from the rest of the population, this became extremely difficult since autumn 2023, due to the overpopulation of the CCAC.

Lastly, there are growing concerns regarding the provision of Reception and Identification services at entry points deprived of Reception facilities and services, until the transfer of the newcomers in RICs and CCACs. Even in Rhodes, Gavdos and Crete, where there is a steady flow of arrivals, there is no provision for the satisfaction of not even the most basic needs of the people arriving with regard to respect for human dignity until their transfer. As a result, access for new arrivals to fundamental rights such as housing, food and health care, an obligation and responsibility of the central administration, is left to the discretion of local authorities and civil society. In many cases, newcomers are transferred directly to PRDCs where they remain detained and as a result they are not subject at all to Reception and Identification Procedures, in contravention with what the Law provides. Following an intervention made before the Greek Ombudsman for such cases, the latter requested the Greek Authorities 'to consider

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<sup>234</sup> Ibid.

<sup>235</sup> GCR, *News from the field*, 1 May 2023, available at <https://tinyurl.com/3us999zx>.

<sup>236</sup> MSF, *Pushbacks, detention and violence towards migrants on Lesbos*, Press Release, 25 May 2023, available at: <https://tinyurl.com/htk996p2>.

<sup>237</sup> GCR, *News from the field*, 1 May 2023, available in Greek at <https://tinyurl.com/3us999zx>.

lifting the administrative detention and subjecting the detainees to reception and identification procedures at a competent RIC’.

A geographical restriction is also systematically imposed on every newly-arrived person on the Greek islands, initially by the police and the Head of the Asylum Service, imposing the obligation to remain on the islands. This is separate to the decision of the Governor of the RIC imposing a *de facto* detention period of up to 25 days, within the premises of the respective RIC (so-called “restriction of movement”). For more details on the geographical limitation on the Greek Eastern Aegean Islands, see [Reception Conditions, Freedom of movement and Identification](#).

The CCACs’ dominant trait is its prison-like environment. The sites are highly securitised and fortified with multiple layers of fencing around the sites’ periphery and around each accommodation section within the centre and private security and police personnel guard each fenced section. The Greek authorities maintain that internal fencing is required in order to minimise risks for vulnerable migrants, such as minors or those at risk due to their sexual orientation and/or gender identity. As the European Ombudsman, points out ‘[t]he external and internal fences may [...] also have negative health (including mental health) consequences on vulnerable migrants and those who have fled difficult circumstances. It is questionable how respect for human dignity and protection of the best interests of the child and of vulnerable individuals can be ensured if residents are forced to stay in such an environment.’<sup>238</sup> (See [Reception Conditions](#)).

Moreover, unaccompanied children, are prohibited from exiting the “SAFE AREA”, which is a fenced container section of the CCACs guarded by security personnel and where they are subject to “restriction of liberty” until their placement and transfer to shelters for minors. During 2023, the waiting period for the placement of UAMs in a ‘restriction of liberty status’ in CCAC to shelters for minors was short. According to official data available, the average waiting time for the placement of UAMs in ‘restriction of liberty’ in the RIC/CCACs was 7.7 days.<sup>239</sup> Transfers from the CCAC to shelters for minors may be conducted with delay. Concerns have also been expressed about the absence of creative activities during the day and confinement in a non-child friendly, prison-like environment, especially when the waiting time for placement has increased.<sup>240</sup>

Since the implementation of the EU-Türkiye Statement, all newcomers are registered by the RIS.<sup>241</sup> During 2023, due to the severe understaffing of the RIS, coupled with the increase of arrivals and the insufficient number or absence of medical staff, there were recorded delays and significant shortcomings or lack of provision of medical and psychosocial assessment/services, as required by law.<sup>242</sup> (see also [Identification](#)).

The registration of initial asylum claims on the islands was conducted by the RIS. Concerns were raised regarding wrongful registration of newcomers’ data, especially the incorrect recording of the date of arrival, incorrect records were often found in the dates of birth, names spelling and country of origin.<sup>243</sup>

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<sup>238</sup> European Ombudsman, *Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 7 June 2023, <https://tinyurl.com/3v82dswd>.

<sup>239</sup> Data made available to GCR by the General Secretariat for Vulnerable Persons & Institutional Protection of the MoMA, as of 04 March 2024.

<sup>240</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at: <https://tinyurl.com/3dffraet>.

<sup>241</sup> Article 8(2) L 4375/2016 as amended by Article 116(3) L 4636/2019, Article 9 L 4375/2016 as amended by Article 39 IPA; see also, Ministerial Decree No 1/7433, Governmental Gazette B 2219/10.6.2019, *General Operation Regulation of the RICs and the Mobile Units of Reception and Identification*.

<sup>242</sup> Joint CSO Statement, *Unlawful detention and worsening conditions: Over 4,000 asylum seekers unlawfully detained on Samos and Lesbos*, 19 September 2023, available at: <https://tinyurl.com/3w8natsr>.

<sup>243</sup> Equal Rights Beyond Borders, HIAS Greece & RSA, *The state of the border procedure on the greek islands*, September 2022, available at: <https://bit.ly/3AtPXLu>, 13.

## Procedures followed on the islands amid the COVID-19 outbreak

In 2023, Greece had waived all the COVID-19 restrictive measures. However, it should be noted that in certain cases, newcomers were, at least until the end of March 2023, the only population group still subject to mandatory COVID-19 quarantine upon arrival in Greece for at least five days.<sup>244</sup>

## Actors present in the RIC and CCACI

In addition to civil society organisations, a number of official actors are present in the RIC facilities on the islands, including RIS, Frontex, the Asylum Service, EUAA and the Hellenic Police.

**Police:** The Police is responsible for guarding the external area of the hotspot facilities, as well as for the identification and verification of nationalities of newcomers. According to the IPA, the registration of the applications for international protection, the notification of the decisions and other procedural documents, as well as the registration of appeals may be carried out by police staff.<sup>245</sup> Moreover, in exceptional circumstances, the interviews of the applicants under the “fast track border procedure” may be carried out by police staff, provided that they have received the necessary basic training in the field of international human rights law, the EU asylum acquis and interview techniques.<sup>246</sup> However, during 2023 all the interviews, including those of the “fast track border procedure”, were exclusively conducted by EUAA or Asylum Service staff. Finally, the decisions on applications for international protection are always taken by the Asylum Service.

**Frontex:** Frontex staff also participates in the identification and verification of nationalities. Although Frontex should have an assisting role, in practice, it conducts nationality screening almost exclusively, as the Greek authorities lack relevant resources, such as interpreters. The conduct of these procedures by Frontex is defined by an internal regulation. It should be noted that, even though the Greek authorities may base their decision concerning the nationality of a newcomer exclusively on an assessment by Frontex, documents issued by the latter are considered to be ‘non-paper’ and thereby inaccessible to individuals. Assessments by Frontex are thus extremely difficult to challenge in practice.

**UNHCR/IOM:** provide information to newly arrived persons.

**Asylum Service:** According to IPA, the Asylum Service is present in the hotspots. Specifically:

- ‘(a) third-country national or stateless person wishing to seek international protection, shall be referred to the competent Regional Asylum Office, a Task Force of which may operate in the RIC;
- (b) both the receipt of applications and the interviews of applicants may take place within the premises of the RIC, in a place where confidentiality is ensured’.<sup>247</sup>

**EUAA (previously EASO):** EUAA also participates in the asylum procedure. EUAA experts have a rather active role within the scope of the [Fast-Track Border Procedure](#), as its officers conduct first instance personal interviews, and they issue opinions regarding asylum applications. Following a legislative reform in 2018, Greek-speaking EASO (now EUAA) personnel can also conduct any administrative action for processing asylum applications, including in the [Regular Procedure](#).<sup>248</sup> Following a mission conducted in Greece in 2019, ECRE published a report in November 2019 which provides a detailed overview on the role of EASO in Greece.<sup>249</sup>

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<sup>244</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at: <https://tinyurl.com/3dffraet>. For more information regarding the impact of Covid-19 restrictive measures on the islands, see AIDA, Country Report: Greece, 2022 Update, June 2023, available at: <https://bit.ly/3PUOVk9>.

<sup>245</sup> Article 90(2) IPA.

<sup>246</sup> Article 90(3), b IPA.

<sup>247</sup> Article 39(6) IPA

<sup>248</sup> Article 65(16) and 90(3) b IPA. See also ECRE, *The Role of EASO Operations in National Asylum Systems*, November 2019, available at: <https://bit.ly/3cSt5rs>.

<sup>249</sup> ECRE, *The Role of EASO Operations in national asylum systems*, November 2019, available at: <https://bit.ly/3cSt5rs>.

**RIS:** The RIS previously outsourced medical and psychosocial care provision to NGOs until mid-2017. Since then, the provision of said services have been undertaken by the Ministry of Health, throughout different entities under its supervision. At the end of 2019, the National Organisation for Public Health (*Εθνικός Οργανισμός Δημόσιας Υγείας, ΕΟΔΥ*, also EODY), a private entity supervised and funded directly by the Ministry of Health and Social Solidarity,<sup>250</sup> was the competent body for the provision of medical and psychosocial services. Serious shortcomings were however noted in 2023 due to the insufficient number of medical staff in the RIC (see also [Identification](#)) resulting in serious shortcomings regarding the assessment of asylum seekers' vulnerabilities.

**Security personnel in CCACs:** The surplus private security personnel guarding each accommodation and other sections of the CCAC is not assisted by interpreters. The lack of interpretation services leads to the endogenous inability of the CCACs' residents to communicate their needs; especially considering that the latter cannot access services or exit their containers if they do not carry with them their asylum seeker's ID cards.

In the aftermath of the fires which destroyed the Moria facility on the Greek island of Lesbos, the Task Force was set up within the European Commission's Directorate General for Migration and Home Affairs (DG HOME). The mission of the Task Force is the coordination of the Union's work on all strategic, operational, legal and financial issues linked to migration management. The Task Force works in a matrix approach, tapping into established resources in DG HOME's relevant units (policy, operational, financial) and cooperates closely with all other Commission services and EU agencies involved. Its work covers a wide range of coordination and support activities for Member States both in the Eastern and Southern external borders. The Task Force has a coordinating and supporting function and does not change or replace the prime responsibility of the national authorities in migration management on their territory.<sup>251</sup> However, issues arise as its actual role remains unclear. Moreover, its contribution to the fulfillment of the objectives for which it was created is doubted.<sup>252</sup>

## 2.2.2 Reception and identification procedures in Evros

Individuals entering Greece through the Greek-Turkish land border in Evros are not subject to the EU-Türkiye statement. Therefore, they are not subjected to the fast-track border procedure and there is no geographical restriction imposed on them while their asylum application remains pending.

However, they are subjected to reception and identification procedures at the Reception and Identification Centre (RIC) in Fylakio, Orestiada, which was inaugurated in 2013 and is since operating as a closed facility. People transferred to the RIC in Fylakio are also subjected to a "restriction of freedom of movement" applied as a *de facto* detention measure, meaning that, according to the Law they remain restricted within the premises of the RIC for a period of 5 days that can be extended for up to an additional 20 days. However, according to GCR observation, in few cases, *de facto* detention in the RIC exceeded 25 days, mostly due to delays in transfers in second line reception facilities, which have reached their capacity.<sup>253</sup>

Depending on the number of arrivals, new arrivals, including families and minors, once detected and apprehended by the authorities, may first be transferred to a border guard police station or the Pre-Removal Detention Centre (PRDC) in Fylakio, where they remain in detention (so called 'pre-RIC detention') pending their transfer to the RIC Fylakio. 'Pre-RIC detention' has occurred in instances where new arrivals surpassed the accommodation capacity of the RIC Fylakio. Their detention "up to the time that [the person] will be transferred to Evros (Fylakio) RIC in order to be subject to reception and identification procedures", as justified in the relevant detention decisions, has no legal basis in national law (see [Grounds for Detention](#)). By the end of 2023, the period of pre-RIC detention was limited to a few days as far as GCR is aware.

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<sup>250</sup> Established by L 4633/2019.

<sup>251</sup> EU Commission, Task Force Migration Management, available at: <https://tinyurl.com/4hyxbes9>.

<sup>252</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, available at <https://tinyurl.com/bdpc6byj>

<sup>253</sup> GCR, *Reception of asylum seekers in Greece: the demand for humane conditions remains*, 9 November 2023, <https://tinyurl.com/5d789w58>.

By the end of September 2023, 3,577 individuals were registered by the RIS in Evros, out of which 2,722 were men and 855 were women.<sup>254</sup> Information on capacity of the RIC and the number of individuals residing in the RIC during the reporting period were not made available.

Since 2022, the lodging of asylum applications was no longer conducted by GAS. In the scope of Reception and Identification procedures, RIS conducted the registration of the asylum applications, during which all personal details of the applicants and the reasons for seeking international protection are recorded. According to GCR observation, registration took place immediately upon arrival for all newcomers (single adults, families and UAMs). In a considerable number of cases concerning UAMs, the registration of the asylum application took place before they were referred/ appointed to a child protection actor.

Following the conclusion of the Reception and Identification Procedures, newly arrived persons were released and the vast majority were referred by the RIS to open reception facilities in the mainland, with the exception of UAMs who remained in the RIC, pending their placement and transfer to a shelter for minors.

It should be noted that since the end of October 2023, given the lack of capacity of the second line reception facilities<sup>255</sup> and ensuing delays in official transfers of applicants from the Fylakio RIC to other facilities in the mainland, according to GCR observation, registered applicants who had initially expressed their wish to be referred to such facilities as part of their right to reception conditions, have been given the option to be released and leave the RIC on their own. However, in order to do so, applicants are first required to sign a solemn declaration, stating an address, as well as their willingness to no longer be included in official transfers to other facilities on the mainland, and for their right to reception conditions to be waived. Accordingly, this practice, aimed at decongesting the Fylakio RIC, needs to be checked, at least, with respect to the extent to which applicants are effectively informed of the consequences of signing this form, particularly given the link between residence in the Greek reception system and access to a set of provisions, both under material reception conditions (receipt of financial aid), and in the context of limited support to integration (enrolment to Helios) for those that may end up being granted international protection in Greece.

By the end of September 2023, 345 UAMs (274 boys and 71 girls) were registered by the RIS in Evros. This number corresponds to the 24.42% of the total number of UAMs registered during this period in CCACs and RICs in Greece.<sup>256</sup> During 2023, the waiting period for the placement of UAMs in a 'restriction of liberty status' (namely in protective custody or in the RIC) to shelters for minors remained short. According to official data available, the average waiting time for the placement was 4.5 days. The average waiting time for the placement of UAMs in protective custody was 0.4 days, while the average waiting time for the placement of UAMs in 'restriction of liberty' in the RIC/CCACs was 7.7 days.<sup>257</sup> Transfers from the RIC in Fylakio to shelters for minors may be conducted with delays of up to 2-3 weeks.

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<sup>254</sup> As per the latest available data (time of writing) published at the MoMA's website, under [Statistics](#), Reception and Identification Service, 2023, nine months of 2023, registrations of TCNs/stateless persons per location of registration, available in Greek at: <https://tinyurl.com/2p8dv6su>.

<sup>255</sup> GCR, *Reception of asylum seekers in Greece: the demand for humane conditions remains*, 9 November 2023, <https://tinyurl.com/5d789w58>.

<sup>256</sup> As per the latest available data (time of writing) published at the MoMA's website, under [Statistics](#), Reception and Identification Service, 2023, nine months of 2023, registrations of UAM per location of registration, available in Greek at: <https://tinyurl.com/yc4rcr2e>.

<sup>257</sup> Data received from the General Secretariat for Vulnerable Persons & Institutional Protection of the MoMA, on 4 March 2024.



### 3. Registration of the asylum application

#### Indicators: Registration

1. Are specific time limits laid down in law for making an application?  Yes  No  
❖ If so, what is the time limit for making an application?
2. Are specific time limits laid down in law for lodging an application?  Yes  No  
❖ If so, what is the time limit for lodging an application?
3. Are making and lodging an application distinct stages in the law or in practice?  Yes  No
4. Is the authority with which the application is lodged also the authority responsible for its examination?  Yes  No  
It depends. RIS personnel may also fully register asylum applications.
5. Can an application for international protection for international protection be lodged at embassies, consulates or other external representations?  Yes  No

#### 3.1 Rules for the registration and lodging of applications

Article 69 of the Asylum Code transposes Article 6 of the recast Asylum Procedures Directive on access to the procedure.

As outlined below, Greek law refers to simple registration (*απλή καταγραφή*) to describe the notion of “registration” and full registration (*πλήρης καταγραφή*) to describe the notion of “lodging” of an application for international protection under the Directive.

#### Registration of applications for international protection (“*Καταγραφή*”)

Article 69(1) of the Asylum Code provides that any foreigner or stateless person has the right to “make” an application for international protection. The application is submitted before the competent receiving authorities, *i.e.*, the Regional Asylum Offices (RAO), the Autonomous Asylum Units (AAU) or the Mobile Asylum Units of the Asylum Service or the Regional Reception and Identification Services,<sup>258</sup> depending on their local jurisdiction, which shall immediately proceed with the “full registration” (*πλήρης καταγραφή*) of the application.

Following the “full registration” of the asylum claim,<sup>259</sup> the application for international protection is considered to be lodged (*κατατεθειμένη*).<sup>260</sup>

The Asylum Code provides that such full registration shall take place no more than 15 working days from the time of simple registration. More precisely, according to the Asylum Code, where “for whatever reason” full registration is not possible, following a decision of the Director of the Asylum Service, the Receiving Authorities may conduct a “simple registration” (*απλή καταγραφή*) of the asylum seeker’s necessary details within 3 working days, and then proceed to the full registration by way of priority within a period of not exceeding 15 working days from “simple registration”.<sup>261</sup> In such a case, upon “basic registration”, the applicant receives a document indicating his or her personal details and a photograph, to be replaced by the International Protection Applicant Card when their full registration is eventually carried out, *i.e.*, upon the lodging of the full application.<sup>262</sup>

According to the Asylum Code, if the application is submitted before a non-competent authority, that authority is obliged to promptly notify the competent receiving authority and refer the applicant thereto.<sup>263</sup>

<sup>258</sup> Article of Asylum Code.

<sup>259</sup> Article 69(1) of Asylum Code.

<sup>260</sup> Article 69(3) of Asylum Code.

<sup>261</sup> Article 69(2) of Asylum Code.

<sup>262</sup> *Ibid.*

<sup>263</sup> Article 69(9) of Asylum Code.

An asylum application will not be considered properly lodged until it is fully registered by the Asylum Service, as the competent authority.

For third-country nationals willing to apply for asylum while in detention, the competent Detention Authorities shall ensure the immediate preparation and submission of a written declaration to that effect, following which the detention authority must register (simple registration) the application on an electronic network connected to the Asylum Service within three working days.<sup>264</sup>

Moreover, according to the Asylum Code, the lodging of the application with the Receiving Authorities must be carried out within seven working days after the “basic registration” by the detention authority or the RIS.<sup>265</sup> In order for the application to be fully registered, the detainee is transferred to the competent RAO or AAU.<sup>266</sup>

### Lodging of applications (“Κατάθεση”)

No time limit is set by law for lodging an asylum application. However, Article 83 of the Asylum Code transposes Article 13 of the recast Asylum Procedures Directive that refers to applicants’ obligations and foresees that applicants are required to appear before competent authorities in person, without delay, in order to submit their application for international protection.

Applications must be lodged in person,<sup>267</sup> except under *force majeure* conditions.<sup>268</sup> According to the Asylum Code, the lodging of the application must contain *inter alia* the personal details of the applicant and the full reasons for seeking international protection.<sup>269</sup>

As a general rule, the Asylum Code provides that the asylum seeker’s card, which is provided to all persons who have been fully registered, *i.e.*, lodged their application, is valid for 1 year, which can be renewed as long as the examination is pending.<sup>270</sup> However, the Asylum Code provides for a number of cases where the asylum seeker’s card can be valid for shorter periods. Thus, the validity of an asylum seeker’s card can be set for a period:

- ❖ No longer than 3 months, where the applicant belongs to a nationality with a recognition rate lower than 35% in accordance with the official EU statistics and by taking into consideration the period for the issuance of a first instance decision expected;<sup>271</sup>
- ❖ No longer than 30 days, where the communication of a decision or a transfer on the basis of the Dublin Regulation is imminent;<sup>272</sup>
- ❖ No longer than 30 days, where the application is examined “under absolute priority” or “under priority”, under the accelerated procedure, under Art. 84 (inadmissible) or under the border procedure.<sup>273</sup>

In 2022, the Asylum Service registered 37,362 applications for international protection, mainly lodged by Afghans (5.624) and Syrians (5.050).<sup>274</sup> In 2023, the Asylum Service registered 64,212 applications for international protection, mainly lodged by Syrian (21.8%), Afghan (14.8%), Palestinian (10.5%) and Iraqi (10.1%) nationals.<sup>275</sup>

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<sup>264</sup> Article 69(7) (b) of Asylum Code.

<sup>265</sup> *Ibid.*

<sup>266</sup> *Ibid.*

<sup>267</sup> Article 83(3) of Asylum Code.

<sup>268</sup> Article 83(4) of Asylum Code.

<sup>269</sup> Article 69(1) of Asylum Code.

<sup>270</sup> Article 75 (1) of Asylum Code.

<sup>271</sup> Article 75 (2) of Asylum Code.

<sup>272</sup> Article 75 (3) of Asylum Code.

<sup>273</sup> Article 75 (4) of Asylum Code.

<sup>274</sup> Information published by the Asylum Service 31 December 2022, available in Greek at: <https://bit.ly/41W5ZsN>.

<sup>275</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 8a.

## Role of EUAA (previously EASO) in registration<sup>276</sup>

EUAA (previously EASO) deploys Registration Assistants to support the Greek Asylum Service in charge of registration across the territory. Registration Assistants are almost exclusively locally recruited interim staff, notably because citizenship is required for access to the database managed by the police (*Αλκυόνη*) which is used by the Asylum Service.

In 2023, the number of registrations carried out by the EUAA in Greece increased to 35,723 applications for international protection. Of these, 83% related to the top 10 citizenships of applicants and in particular Syrians (8,802), Afghans (5,202), Iraqis (4,380), Palestinians (4,377), Pakistanis (1,847), Somalis (1,705), and Egyptians (1,199).<sup>277</sup>

### 3.2 Access to the procedure on the mainland

Access to the asylum procedure remained a structural and endemic problem in Greece for many years. Difficulties with regard to access to the asylum procedure have been observed since the very start of the operation of the Asylum Service in 2013, in particular due to Asylum Service staff shortages and the non-operation of all RAO provided by law. A previous system for granting appointments for registration of asylum applications existed since 2014 through Skype, but proved inefficient to adequately allow access of persons applying for asylum to the procedure. Deficiencies in the Skype appointment system stemmed from limited capacity and availability of interpretation, and barriers to applicants' access to the internet. Consequently, prospective asylum seekers frequently had to try multiple times (often over a period of several months) before they managed to get through to the Skype line to obtain an appointment for the full registration of their application, while they remained undocumented and, therefore, were facing the danger of a potential arrest and detention by the police. They were deprived of the assistance to which they are entitled as asylum seekers, including reception conditions and in particular, access to housing.<sup>278</sup>

On 13 July 2022, the Ministry of Migration and Asylum operationalised a new online platform for the booking of appointments for lodging an initial asylum application in person for asylum seekers in Greece, which, as noted in several national Court decisions in cases represented by GCR,<sup>279</sup> is tantamount to confirming a person's will to apply for asylum. The procedure applies to all third country nationals arriving in Greece and wishing to claim asylum, as well as for those already residing in Greece and who have not been through reception and identification procedures. The platform is available in twelve languages (Greek, Kurmanji, Albanian, Georgian, Arabic, Bengali, Dari, English, Farsi, Pashto, Turkish and Urdu), and after applicants have provided their personal information, they are asked to choose one of two registration facilities: in Diavata (Thessaloniki) or Malakasa (Attica). Once the electronic form is completed, a registration appointment would be assigned to the applicant and communicated via email. The first appointments took place on 1 September 2022, and it is understood that the facilities reached full capacity on the same day.<sup>280</sup> Between December 2023 and 23 June 2023, a total of 10,756 pre-registrations took place via the platform.<sup>281</sup> Data from 23 June onwards are not available, as noted,<sup>282</sup> on account of "the upgrade of the computer system carried out by the Services of the Ministry of Immigration and Asylum".

<sup>276</sup> It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).

<sup>277</sup> Information provided by the EUAA, 26 February 2024.

<sup>278</sup> For more, *inter alia*, see AIDA, *Country Report Greece: 2020 Update*, June 2021, available at: <https://bit.ly/3BWIPJ3>.

<sup>279</sup> Indicatively, ΔΠρΚαβ. 164/2023, ΜΠρΑθ 1524/2023 and ΔΠρΚομ ΑΠ163/2023.

<sup>280</sup> Statement published by Mobile Info Team, *New asylum seeker registration procedure begins today and is already at capacity: People will be forced to remain undocumented for 14 months as they wait for an appointment in Diavata or Malakasa*, 1 September 2022, available at: <https://bit.ly/3NzpmKj>.

<sup>281</sup> MoMA, *Statistics*, Consolidated Reports - Overview: *December 2023 - International Protection* | Appendix A, available at: <https://tinyurl.com/yc2stzh7>, table 7a.

<sup>282</sup> *Ibid.*

The appointment process mandates a *de facto* detention period of maximum 25 days in order for the procedure to be completed, restricting the freedom of movement of those who have registered for asylum. Pursuant to Article 8 of the EU Reception Conditions Directive (RCD), Member States 'shall not hold a person in detention for the sole reason that he or she is an applicant for international protection'.<sup>283</sup> Despite this, the new platform uses *de facto* detention as the *status quo* for the registration of an asylum application, violating the RCD's conditions of exceptional implementation. During this *de facto* detention period, asylum seekers complete their asylum interview and wait for the first instance decision on their case.

In addition, there have been reports of an irregular distribution of appointments and extensive delays of appointment dates, with several appointments being assigned over twelve months after the initial pre-registration application was submitted.<sup>284</sup> In many cases, appointments were not available at all, further highlighting the lack of capacity of the facilities and resources available, forcing people to remain undocumented for extensive periods of time, without basic medical care, accommodation or essential services.

Consequently, the issues that existed during the previous Skype pre-registration system persist, where people are forced into a legal limbo without any official documentation or legal status and remain unsupported by appropriate structures to provide for their essential needs.

### 3.3 Access to the procedure from administrative detention

Access to the asylum procedure for individuals detained for the purpose of removal is highly problematic. The application of a detained person having expressed his or her wish to apply for asylum is registered with delay. The person remains detained between the expression of the intention to seek asylum and the registration of the application, by virtue of a removal order. He is deprived of any of the procedural guarantees provided to asylum seekers,<sup>285</sup> despite the fact that according to Greek law, any individual who expresses the intention to lodge an application for international protection is an asylum seeker. Since the waiting period between expression of intention and registration is not counted in the Duration of Detention, asylum seekers may be detained for a total period exceeding the maximum detention time limit for asylum seekers.<sup>286</sup>

The findings of the UN Working Group on Arbitrary Detention in 2019 are still valid:<sup>287</sup>

'many detainees did not understand their right to apply for asylum and the corresponding procedure, with some individuals incorrectly believing that the process was initiated when they were fingerprinted. There was no established scheme for providing legal aid during the first-instance asylum application, and interpretation was not consistently provided, with asylum seekers relying on second-hand information from fellow applicants. The Working Group was informed that no information was provided by the police to detainees on their right to apply for international protection or on the procedural stages, and that such information was provided by non-governmental actors only.'

The time period between the expression of intention to apply for asylum and the registration varies depending on the circumstances of each case, and in particular, the capacity of the competent authority, the availability of interpretation, and the number of people wishing to apply for asylum from detention.

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<sup>283</sup> Article 8 (1) RCD

<sup>284</sup> GCR, Oxfam, Save the Children, *Greece // Bimonthly Bulletin on Refugees and Migrants*, October 2022, available at: <https://bit.ly/3BQxgSE>.

<sup>285</sup> Global Detention Project & Greek Council for Refugees, *Joint Submission to the Working Group on Arbitrary Detention in Preparation for its Mission to Greece in December 2019*, Submitted in October 2019, available at: <https://bit.ly/2TRYmna>.

<sup>286</sup> Communication from the UNHCR in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08), 15 May 2019, available at: <https://bit.ly/3N7B740>.

<sup>287</sup> Report of the Working Group on Arbitrary Detention Visit to Greece 2 - 13 December 2019, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dPiHSX>, paras 61-62.

## C. Procedures

### 1. Regular procedure

#### 1.1. General (scope, time limits)

##### Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 6 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?  Yes  No
3. Backlog of pending cases at first instance as of 31 December 2023: 29,885
4. Average length of the first instance procedure in (year of reference): Reported at less than 2.5 months on average,<sup>288</sup> yet sources do not specify the type of procedure concerned.

According to data published by the Ministry of Migration and Asylum,<sup>289</sup> the total number of pre-registrations of (first time) asylum claims (“registered intentions”) by 23 June 2023 was 10,756, a 13.32% increase compared to the first half of 2022 (9,491).<sup>290</sup> A total of 57,891 (first time) applications for asylum were lodged before the Asylum Service in 2023, a significant increase of 98.95% compared to the 29,097 applications lodged in 2022.<sup>291</sup>

According to article 88(3) Asylum Code, an asylum application should be examined “the soonest possible” and, in any case, within six months of lodging, in the context of the regular procedure. This time limit may be extended for a period not exceeding three months, in cases where a large number of third-country nationals or stateless persons simultaneously apply for international protection. In any event, as per the same article, the examination of the application should not exceed 21 months.

Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the Asylum Code, ‘this does not constitute an obligation on the part of the Asylum Service to issue a decision within a specific time limit.’<sup>292</sup>

Applicants who are recognised as refugees are given only an excerpt of the relevant decision, which does not include the decision’s reasoning. According to the Asylum Code, in order for the entire decision to be delivered to the individual recognised as a beneficiary of international protection, a special legitimate interest (*ειδικό έννομο συμφέρον*) must be proven.<sup>293</sup>

#### Duration of procedures

In 2022, significant delays during the processing of applications at first instance were evident when considering the total number of pending applications in proportion to the time they were pending, with more than 1 in 5 applications registered in previous years still pending at the end of 2022. Namely, according to the Ministry of Migration and Asylum, a total of 17,249 applications were pending by 31

<sup>288</sup> As per the reply of the Minister of Migration and Asylum to parliamentary question no. 764/19.09.2023, 18 October 2023, available in Greek at: <https://bit.ly/3TUVRhX>.

<sup>289</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, tables 7a, 8c. As noted in the same publication, “[s]tatistics on Pre-Registrations of applications for International Protection are not currently available for the period of July-December 2023 due to the upgrade of the computer system carried out by the Services of the Ministry of Immigration and Asylum”.

<sup>290</sup> MoMA, *Statistics, Consolidated Reports - Overview: June 2022 - International Protection | Appendix A*, available at: <https://bit.ly/3vRPhAD>, table 7a.

<sup>291</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2022 - International Protection | Appendix A*, available at: <https://bit.ly/3xB9341>, table 8c.

<sup>292</sup> Article 88(6) Asylum Code.

<sup>293</sup> Article 74(6) Asylum Code.

December 2022.<sup>294</sup> Of these, 4,134 (23.74%) had been pending for a period of over 12 months since the day they were registered, 2,334 (13.53%) were pending for a period of over 6 months and 10,781 (62.50%) were pending for a period of under 6 months.<sup>295</sup>

The extent to which such delays are still pertinent in 2023 is not possible to assess, as data on the duration of the procedure at first instance has not been provided by the MoMA, even though GCR has requested it. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]". However, a closer look at the public sources referenced by the MoMA highlights that the specific data is not available, while the marked 73% increase in the number of applications pending in December 2023 (29,885), compared to the same month in 2022 (17,249), is by itself an insufficient indicator of the procedure's duration.

That being said, ongoing delays of months and in some cases of even more than a year in the conduct of asylum interviews on account of gaps in the provision of interpretations services were reported at least in **Malakasa** RIC and **Ritsona** camp in March 2024, with the gaps also impacting on applicants' ability to communicate their needs with the camp's staff.<sup>296</sup>

## 1.2. Prioritised examination and fast-track processing

The Asylum Code sets out two forms of prioritized examination of asylum applications.

Firstly, the Asylum Service shall process "by way of absolute priority", claims concerning:

- (a) Applicants undergoing reception and identification procedures who do not comply with an order to be transferred to another reception facility, if their non-compliance hinders the smooth completion of the examination procedure;<sup>297</sup>
- (b) Applicants who are detained.<sup>298</sup>

In accordance with articles 46(c) and 50(8) Asylum Code, processing by way of "absolute priority" means the examination procedure needs to be concluded within 20 days, albeit articles 42(α) and 88(7) Asylum Code, both of which cite the preceding articles, mention a 15-day deadline for the same purpose, highlighting an inconsistency in the law.

Secondly, the law provides that an application may be registered and examined by way of priority for persons who:<sup>299</sup>

- (a) Belong to vulnerable groups, insofar as they are under a "restriction of liberty" measure in the context of **Reception and Identification** procedures;
- (b) Fall under the scope of the **Border Procedure**;
- (c) Are likely to fall within the **Dublin Procedure**;
- (d) Have cases which may be considered as manifestly unfounded;
- (e) Represent a threat to national security or public order; or
- (f) File a **Subsequent Application**;
- (g) Come from a **First Country of Asylum** or a **Safe Third Country**;
- (h) Have cases reasonably believed to be well-founded.

From 2014 up until the first half of 2021, Syrians and stateless persons were eligible to a fast-track procedure examining their cases and often resulting in the granting of refugee status. This also applied

<sup>294</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>295</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>296</sup> Solomon, "Lost for Words: Lack of interpreters puts asylum seekers' lives on hold in Greece", 27 March 2023, available at: <https://tinyurl.com/247fkvv6>.

<sup>297</sup> Article 46(c) Asylum Code

<sup>298</sup> Article 50 (8) Asylum Code.

<sup>299</sup> Articles 38(2) and 88(7) Asylum Code.

to those who formerly resided in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the Reception and Identification Procedure, provided that the EU-Türkiye Statement and the fast-track border procedure did not apply to their cases.<sup>300</sup> The specific fast-track procedure (examination in the merits) is still applicable to this day, though admissibility proceedings may precede it.

However, Joint Ministerial Decision 458568/2021, issued in December 2021 under Article 86 IPA, designated Türkiye as a safe country for applicants from Syria, Afghanistan, Pakistan, Bangladesh, and Somalia.<sup>301</sup> This was reinforced by Joint Ministerial Decision no. 538595/2023, issued on December 15, 2023, on the “Determination of third countries characterised as safe and establishing of a national list as defined in article 91 of Law 4939/2022.”<sup>302</sup> As a result, applications lodged by those falling under the provisions of the aforementioned JMDs are since firstly channelled through the admissibility procedure to assess whether Türkiye is a safe third country and whether their cases are admissible and should be examined on the merits (for more details, see also [Safe Third Country](#)).

### 1.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?  Yes  No
3. Are interviews conducted through video conferencing?  Frequently  Rarely  Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?  Yes  No
  - ❖ If so, is this applied in practice, for interviews?  Yes  No

According to the Asylum Code, the personal interview with the applicant may be omitted where:<sup>303</sup>

- (a) The Asylum Service is able to take a positive decision on the basis of available evidence.
- (b) It is not practically feasible, in particular when the applicant is declared by a medical professional as unfit or unable to be interviewed due to enduring circumstances beyond their control.

Moreover, the law foresees that when the applicant is not in a position to continue the interview for reasons attributable to him/her, “the interview is terminated”. In this case, the applicant is provided with the opportunity to submit a written memo and supplementary evidence within five days.<sup>304</sup> According to the Asylum Code, the omission of a personal interview does not adversely affect the in-merits decision on the application, in which the reasons for omitting the interview should be stated.<sup>305</sup>

The Asylum Code further provides that, where the interview has been scheduled within 15 days from the lodging of the application and where the applicant is vulnerable, the authorities provide him or her with reasonable time not exceeding three days to prepare for the interview and obtain counselling. The possibility to request reasonable time is not granted to asylum seekers who are not vulnerable or whose interview has been scheduled more than 15 days after the submission of the application.<sup>306</sup>

<sup>300</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>301</sup> JMD 458568/2021, Gov. Gazette B' 5949/16-12-2021.

<sup>302</sup> JMD 538595/2023, Gov. Gazette B' 7063/15-12-2023.

<sup>303</sup> Article 82(7) Asylum Code.

<sup>304</sup> Article 82(7) Asylum Code.

<sup>305</sup> Article 82(9) Asylum Code.

<sup>306</sup> Article 82(4) Asylum Code.

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker. The personal interview of adult asylum seekers takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.<sup>307</sup> Moreover, the personal interview must take place under conditions that ensure appropriate confidentiality.<sup>308</sup>

However, GCR and other civil society organisations have expressed concerns relating to confidentiality in certain RAO or AAU due to the lack of appropriate spaces, lack of isolation and technical difficulties. For example, and as reported, this was the case in the RAO of Lesbos, where registrations and interviews were carried out with the doors of the case workers' offices open, in breach of the principle of confidentiality.<sup>309</sup>

The person conducting the interviews should be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, the interviewer must be trained on the special needs of women, children and victims of violence and torture.<sup>310</sup> In case of female applicants, the applicant can request a case worker/interpreter of the same sex. If this is not possible, a note is added to the transcript of the interview.<sup>311</sup>

### **The EUAA's role in the regular procedure**

Following the amendments introduced by L 4540/2018, which were maintained in the Asylum Code,<sup>312</sup> the EUAA (formerly EASO) can be involved in the regular procedure.<sup>313</sup> EUAA personnel providing services at the Asylum Service premises are bound by the Asylum Service Rules of Procedure.<sup>314</sup> The main form of support provided by EUAA caseworkers includes the conduct of interviews with applicants and the drafting of opinions to the Asylum Service, which retains responsibility for issuing a decision on the asylum application. The personnel involved in the regular procedure should be Greek-speaking case workers.<sup>315</sup>

In 2023, the number of interviews carried out by EUAA caseworkers in Greece continued to decrease, compared to previous years, to interviews in the asylum cases of 7,272 applicants. Of these, 77% related to the top 10 citizenships of applicants interviewed by the EUAA, in particular Somalis (1,620), Afghans (687), Pakistanis (592) and Eritrean (538).<sup>316</sup> The number of concluding remarks issued by EUAA decreased to 776 in 2023, a significant drop compared to 2022 (5,071). This is due to the fact that, following the June 2021 Joint Ministerial Decision designating Turkey as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility.<sup>317</sup>

Relevant data on the role of the EUAA in the asylum procedure (conduct of interviews, drafting of opinions and/or concluding remarks etc) were not provided by the MoMA. Specifically, following the relevant request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First

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<sup>307</sup> Article 82(10) Asylum Code.

<sup>308</sup> Article 82(11) Asylum Code.

<sup>309</sup> Letter to the Head of RAO Lesbos signed by the Legal Organizations active in Lesbos – Members of the Lesbos Legal Aid sub-Working Group: Greek Council for Refugees, European Lawyers in Lesbos, Fenix Humanitarian Legal Aid, HIAS Greece, Legal Centre Lesbos, PRAKSIS, Refugee Support Aegean, 15 February 2023, on file with the author.

<sup>310</sup> Article 82(12)(a) Asylum Code.

<sup>311</sup> Article 82(5) Asylum Code.

<sup>312</sup> Article 69(16) Asylum Code.

<sup>313</sup> Article 69(16) Asylum Code.

<sup>314</sup> Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.

<sup>315</sup> Article 69(16) Asylum Code.

<sup>316</sup> Information provided by the EUAA, 26 February 2024.

<sup>317</sup> Information provided by the EUAA, 26 February 2024.



Reception Service, the Asylum Service and the Appeals Authority [...]”. Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

### Interviews conducted through videoconferencing

In GCR’s experience, interviews continued to be regularly conducted through video conferencing in 2023, either with the interviewer or the interpreter (or often both) participating through digital tools. This was particularly the case for applicants residing in camps on the mainland, who were interviewed without having to leave the camp, as well as in certain RAOs with certain interviewers being based in other RAOs. There have also been some cases where the interview was conducted remotely through telephone rather than through video conferencing.

At the beginning of the interview, the caseworker requests the applicant’s consent for the use of videoconferencing to carry out the interview. The applicant gives their consent orally, which is recorded both in the audio recording of the interview as well as in the written transcript. However, applicants were not informed about possible consequences in case of refusal to use digital tools, such as rescheduling the interview at a later date. Other issues arising from the use of digital tools include technical issues such as poor internet connection and inadequate sound quality. Even under the best of conditions, video conferencing may negatively affect the quality of the interpretation and possibly the interview due to the loss of non-verbal communication cues.

#### 1.3.1. Recognition rates, quality of interviews and decisions

The Asylum Service handed down a total of 32,529 in-merit decisions in 2023:<sup>318</sup>

Decisions on the merits by the Asylum Service: 2023			
Refugee status	Subsidiary protection	Rejected	Exclusion (Article 1F Refugee Convention)
24,345	591	2,339	87

Source: Ministry of Migration and Asylum

While recognition rates at first instance remain high (in terms of in-merit decisions), a number of first instance cases demonstrate the persistence of long-standing concerns vis-à-vis the “deterioration in quality at first instance”, *inter alia* due to the way in which interviews were conducted, the assessment of the asylum claims and/or the decisions delivered.”<sup>319</sup>

Examples of such cases in 2023 include:

- ❖ The case of a conscientious objector from the Russian Federation, whose application was rejected despite the fact that the asylum service accepted as true both that he was eligible for conscription as well as his long-standing moral, political and religious reasons for refusing to be enlisted to fight. His claim was rejected solely on the fact that to his knowledge he had yet to be sent a call for conscription. Essentially saying that since his fear of persecution had not yet materialized at the time of flight it could not be considered well founded in the context of the examination of his asylum application.<sup>320</sup>
- ❖ The case of an unaccompanied trans minor from Pakistan whose claims of persecution due to their gender identity were dismissed on credibility grounds. The decision demonstrated a profound misunderstanding of the concept of gender identity and sexual orientation. It should also

<sup>318</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, table 9a.

<sup>319</sup> AIDA, *Country Report: Greece, 2019 Update*, pp. 58-59, available at: <https://bit.ly/3ozpn10>.

<sup>320</sup> Decision on file with the author.

be noted that although the interview was conducted by EUAA staff, the decision was issued by an asylum service employee who had no contact with the applicant.<sup>321</sup>

The case of a single-parent family of Arabic decent from Iraq. The case worker rejected the mother's claims of fearing for her own safety as well as the safety of her two minor children from her former husband's family due to her separation from him and her conversion to Christianity, as inadmissible citing *inter alia* sources completely irrelevant to their situation, specifically pertaining to the prevalence of honor crimes among Kurds in Iraqi Kurdistan.<sup>322</sup>

### 1.3.2. Interpretation

The law envisages that interpretation is provided to applicants both during the registration of their asylum request as well as during their interview at first and second instance.<sup>323</sup> In accordance with an amendment to the IPA adopted in May 2020 as well as the codification of the relevant legislation in the Asylum Code, in case interpretation in the language of the choice of the applicant is unavailable, interpretation is provided in the official language of the country of origin or in a language that the applicant may reasonably be expected to understand.<sup>324</sup>

Interpretation for registrations of asylum requests, as well as interviews before the authorities is provided both by interpreters of the NGO METAdrasi and EUAA interpreters, yet challenges were reported in 2023.

Namely, on 30 October 2023,<sup>325</sup> METAdrasi issued an announcement stating it had been forced to reduce by 80% its staff of 300 qualified interpreters in 63 languages *inter alia* supporting the work of the Greek Asylum Service (GAS), on account of a six-month delay in receiving due payments for services provided to the GAS. In the same announcement, METAdrasi also expressed its befuddlement over the delay, given the required funds had already been provided to the Greek state by the European Commission.

Two days later, on 1 November, the organisation issued a further announcement, stating that it had started "a race" for the re-employment of interpreters whose contracts had ended in October, following reassurances received by the Minister of Migration and Asylum that the funding gap would be speedily resolved.<sup>326</sup> Yet despite these reassurances, the issue remained unresolved, at least up to 15 January 2024, when the organisation stressed it had yet to receive a single euro for services provided to the MoMA over an 8-month period, and was thus yet again faced with the need to "drastically reduce" its staff of interpreters, even though the amounts due were earmarked and had already been provided by the EC to the Greek Ministry of Finance for this purpose.<sup>327</sup> Lastly, on 14 May 2024, the organisation announced that following the cessation of the provision of interpretation services in the asylum procedures on 6 May, it would also move forward with the cessation of interpretation services throughout Greece's camps, on account of the expiration and delays in the timely renewal of the contracts it had signed with the MoMA, while once more noting that it had yet to receive due payments for the services provided by its interpreters in the previous months.<sup>328</sup> Following these developments, on 17 May 2024, the MoMA issued its own announcement, noting interpretation gaps had been addressed with the support of EUAA personnel and referring to delays, from the side of METAdrasi NGO, in presenting the necessary documents provided by law in order to sign a new contract, as the designated provider of interpretation services.<sup>329</sup>

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<sup>321</sup> Decision on file with the author.

<sup>322</sup> Ibid.

<sup>323</sup> Article 82(3) Asylum Code.

<sup>324</sup> Article 74(3) Asylum Code.

<sup>325</sup> METAdrasi, *Metadrasi Obligated to Severe Cuts in Interpretation Services due to Prolonged Payment Delays by the Ministry of Migration and Asylum*, 30 October 2023, available at: <https://tinyurl.com/ynpktajb>.

<sup>326</sup> METAdrasi, *Resumption of Interpretation at Reception Centres and the Asylum Service*, 1 November 2023, available in Greek at: <https://tinyurl.com/4kxm4av2>.

<sup>327</sup> METAdrasi, *Interpreters in Refugee Camps and Asylum Procedures Unpaid for Eight Months*, 15 January 2024, available at: <https://bit.ly/4bfFbrP>.

<sup>328</sup> METAdrasi, *End of the provision of interpretation services in the asylum procedures and the Reception and Identification Centres throughout Greece*, 14 May 2024, no longer available online. Also see Kathimerini, *Refugees without the possibility to communicate*, 17 May 2024, available in Greek at: <https://tinyurl.com/47c9vejn>.

<sup>329</sup> MoMA, Announcement, 17 May 2024, available in Greek at: <https://tinyurl.com/cr36z6br>.

As regards remote interpretation, its use continued to be observed frequently and was not limited to remote RAOs and AAUs, that may not have a sufficient number of interpreters.

Technical deficiencies and constraints should be taken into consideration when assessing the quality of remote interpretation. When it comes to rare languages, if no interpreter is available to conduct a direct interpretation from that language to Greek (or English in cases examined by EUAA case workers), more interpreters might be involved in the procedure to translate through different languages.

Lastly, inaccuracies and mistakes in interpretation, including in the context of asylum interviews, with the potential to negatively influence the perceived credibility of applicants and thus their asylum case, were reported in March 2024.<sup>330</sup>

### 1.3.3. Recording and transcript

The Asylum Code provides for the audio recording of the personal interview. A detailed report is drafted for every personal interview, which includes the applicants' main arguments and all the essential elements of their claim. The audio recording of the interview accompanies the report. For interviews conducted by videoconference, audio recording is compulsory. When audio recording is not available, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.<sup>331</sup> The applicant may at any time request a copy of the transcript, a copy of the audio file or both.<sup>332</sup>

### 1.3.4. Notification of First Instance Decisions

The IPA introduced the possibility for first instance decisions not to be communicated in person to the applicant ('fictitious service', *πλασματική επίδοση*) or the first instance decision to be communicated to the applicant by administrative authorities other than the Asylum Service. Both practices, maintained in the Asylum Code, significantly limit the possibility for the applicant to be informed about the issuance of the first instance decision and/or the content of said decision and/or the possibility to lodge an appeal. Consequently, deadlines for submitting an appeal against a negative first-instance decision may expire without the applicant being actually informed about the decision, for reasons not attributable to him/her. As the Greek Ombudsman has noted with regard to the provisions of fictitious service, said provisions effectively limit the access of asylum seekers to legal remedies.<sup>333</sup>

More precisely, according to the Asylum Code, a first instance decision can be communicated:

- ❖ in person or;
- ❖ with a registered letter sent by the Asylum Service to the applicant or;
- ❖ by e-mail to the applicant or;
- ❖ by uploading the Decision on an electronic application managed by the Asylum Service, through which applicants have unique access through an account they maintain, or;
- ❖ by communicating the decision to authorised lawyers, consultants, and representatives.<sup>334</sup> In this regard, it should be mentioned that according to the Asylum Code, once a lawyer is appointed by the applicant at any stage of the procedure, the lawyer is considered to be a representative of the applicant for all stages of the procedures, including the service of the decision regardless of the actual representation of the applicant at the time of the fictitious service unless the appointment of the lawyer is revoked by a written declaration of the applicant with an authenticated signature.<sup>335</sup>

<sup>330</sup> Solomon, *Lost for Words: Lack of interpreters puts asylum seekers' lives on hold in Greece*, 27 March 2023, available at: <https://tinyurl.com/247fkvv6>.

<sup>331</sup> Article 82(13) Asylum Code.

<sup>332</sup> Article 82(15) Asylum Code.

<sup>333</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιάρθρωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018, available in Greek at : <https://bit.ly/3vSDu54>.

<sup>334</sup> Article 87(3) Asylum Code.

<sup>335</sup> Article 76(7) Asylum Code.

The deadline for lodging an appeal against a negative decision begins on the day following its fictitious service. However, when the service of the decision is taking place via electronic means, the deadline begins 48 hours after the dispatch of the electronic message.<sup>336</sup> According to Art. 87(3) of the Asylum Code, together with the decision, a document in the language that the applicant understands or in a language that they may reasonably be supposed to understand is also communicated to the applicant, which explains in simple language the content of decision, its consequences and actions he/she may pursue. Alternatively, a link to the webpage of the Ministry of Migration and Asylum where relevant information is provided is included in the document.

If the applicant resides in a Reception and Identification Centre or is detained in a detention facility, the decision is sent to the Head of the RIC or of the Detention facility, who shall ensure that a notice of receipt, as well as the times of delivery and distribution of the documents to applicants for each working day and time, is posted immediately in visible areas of the premises and draws up an act of receipt and posting. The deadline for lodging an appeal is three days after the act of receipt and posting has been drafted.<sup>337</sup>

No *force majeure* reason has to be invoked in order for a decision to be fictitiously served. If the applicant cannot be found/contacted through one of the abovementioned means, and no lawyer has been appointed, the decision is served to the Head of the RAO/AAU of the Asylum Service or the head of the RIC or the detention facility, after which it is deemed that the applicant has been notified of the decision.<sup>338</sup>

In practice, on the mainland, first instance decisions are mainly served to applicants by e-mail, through their legal representatives or more seldom by registered mail. In cases of electronic notification of first instance decisions, provision of legal aid for the appeals procedure can be requested either in person at the competent RAO or through the electronic platform of the Ministry for Migration and Asylum.<sup>339</sup> If the latter is the only option, e.g., because the applicant lives far from the competent RAO, it significantly hinders their ability to appeal for those not familiar with the use of electronic applications or who do not have access to the required equipment/internet. Moreover, in practice, the notification of first instance decisions is also carried out by the Head of the RICs on the islands and in Evros and the Head of Pre-removal detention facilities in Athens (Amygdaleza and Tavros). In both cases, the inability of the applicants to understand the content of the communicated documents and the procedure they have to follow has been observed.

## 1.4. Appeal

### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
 

❖ If yes, is it	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
❖ If yes, is it automatically suspensive	<input type="checkbox"/> Judicial <input checked="" type="checkbox"/> Administrative
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: reported at 94 days for the mainland (overall),<sup>340</sup> without specifications on the type of procedure concerned.

### 1.4.1. Administrative review

Since the entry into force of the IPA on 1 January 2020, the Independent Appeals Committees are the sole administrative bodies competent for the examination of appeals lodged against first instance asylum decisions.

<sup>336</sup> Article 87(3) Asylum Code.

<sup>337</sup> Article 87(4) Asylum Code.

<sup>338</sup> Article 87(5) Asylum Code.

<sup>339</sup> MoMA, *Asylum Services*, available at: <https://bit.ly/3BPGrCV>.

<sup>340</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, table 11b.

## Establishment and Composition of the Independent Appeals Committees of the Appeals Authority

The legal basis for the establishment of the Appeals Authority was amended several times in recent years and has been further amended by the IPA.<sup>341</sup> More precisely, following an amendment in 2016, the composition of the Appeals Authorities consisted of two active Administrative Judges in the new three-member Appeals Committees (*Ανεξάρτητες Αρχές Προσφυγών*) and a third member, holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience in the fields of international protection, human rights or international or administrative law.<sup>342</sup> According to the amendment introduced by the IPA, the three-member Appeals Committees are composed by three active Administrative Judges of First Instance Administrative Courts and Administrative Courts of Appeal. Moreover, a single member/Judge Committee has been introduced.<sup>343</sup>

These amendments have been highly criticised and issues of unconstitutionality have been raised due to the composition of the Committees *inter alia* by the Union of Administrative Judges,<sup>344</sup> and the Union of Bar Associations.<sup>345</sup> An application for Annulment with regards *inter alia* the compliance with the Greek Constitution of the single member/Judge Appeals Committee was filed by GCR before the Council of State in 2020. The hearing, initially set for 28 March 2023, has been scheduled following several postponements for 14 May 2024. GCR is aware of at least two occasions of postponement of a hearing of an annulment case before the First Instance Administrative Court, pending a decision by the Council of State under the pilot procedure which was triggered by the First Instance Administrative Court of Thessaloniki.<sup>346</sup>

As mentioned above, Appeals Committees are composed of active Administrative judges of both First Instance and Administrative Courts of Appeal. However, following the entry into force of the IPA, the responsibility for the judicial review of the second instance decisions issued by the Appeals Committees has been attributed to the First Instance Administrative Courts and thus further issues of constitutionality may occur. In October 2020, the Council of State triggered its pilot procedure upon referral of three cases from the Administrative Court of Athens, supported by RSA, with a view to adjudicating on the constitutionality of the competence of Administrative Courts to judicially review decisions of the Appeals Committees, given that second instance decisions may be – and often are – taken by Committees composed by higher-court judges (Administrative judges of the Administrative Courts of Appeal).<sup>347</sup>

In October 2021, the Council of State held by majority that the competence of First Instance Administrative Courts to judicially review decisions of the Appeals Committees, even in cases where the second instance decisions on asylum applications are taken by Committees composed by higher-court judges, is constitutional.<sup>348</sup> Specifically, it considered that Appeals Committees are a “collective administrative body” which exercises “competences of a judicial function”, and that judges participate therein not as judicial officials but as “state officials – members of independent authorities of the executive”. First-instance Administrative Courts therefore judicially review decisions by executive bodies, not rulings by judicial

<sup>341</sup> More precisely, it was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, in 2017 by L 4461/2017 and in 2018 by L 4540/2018; see AIDA, Country Report: Greece, 2019 update, available at: <https://bit.ly/3ozpn10>.

<sup>342</sup> Art. 5 L. 4375/2016 as amended; the third member is appointed by UNHCR or the National Commissioner for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.

<sup>343</sup> Article 116(2) and (7) IPA.

<sup>344</sup> Union of Administrative Judges, *Υπόμνημα Ενόψει της συζήτησης του σχεδίου νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας και άλλες διατάξεις»*, 30 October 2019, available in Greek at <https://tinyurl.com/5n6wx744>.

<sup>345</sup> Union of Bar Associations, *Επιστολή του Προέδρου της Ολομέλειας των Δικηγορικών Συλλόγων προς τον Υπουργό Προστασίας του Πολίτη για το σχέδιο νόμου για τη Διεθνή Προστασία*, 25 October 2019, available in Greek at: <https://bit.ly/32KGSKL>.

<sup>346</sup> Council of State, *Προδικαστικό ερώτημα μετά την υπ' αριθμ. ΑΔ534/2022 του Διοικητικού Πρωτοδικείου Θεσσαλονίκης*, 7 October 2022, available in Greek at: <https://tinyurl.com/55cu7vz2>.

<sup>347</sup> Council of State, *Γνωστοποίηση της υπ' αριθ. 19/12-10-2020 πράξης της Επιτροπής του άρθρου 1 παρ. 1 του ν. 3900/2010*, 13 October 2020, available in Greek at <https://tinyurl.com/eufakwy5>; RSA, *The Council of State pilot procedure on judicial review in the asylum procedure*, 1 February 2021, available at: <https://bit.ly/480b4DN>.

<sup>348</sup> Council of State, Decision Nr. 1580-1/2021, October 2021.

officials. Accordingly, the judicial review carried out by lower judges of decisions taken by higher judges was not deemed contrary to the principle of judicial independence and impartiality.<sup>349</sup>

The Appeals Authority consisted of 21 Independent Appeals Committees,<sup>350</sup> which were reduced to 20 following JMD 109288/30.04.2024 (Gazette B' 2602/01.05.2024).

### **EUAA (former EASO) role at second instance**

Since 2017, the law foresees that “in case of a large number of appeals”, the Appeals Committees might be assisted by “rapporteurs” provided by EASO (now EUAA).<sup>351</sup> These rapporteurs have access to the files and are entrusted with drafting a detailed and in-depth report, that will contain a record and statement of the facts of the case along with the main claims of the appellant, as well as a matching of said claims (*αντιστοίχιση ισχυρισμών*) with the country of origin information that will be presented before the competent Committee in order to decide.<sup>352</sup> Both the IPA and the Asylum Code maintain the same tasks for “rapporteurs” provided by EASO.<sup>353</sup> However, according to the IPA, this is not only foreseen “in case of a large number of appeals”. Articles 95(4) IPA and 100 (4) Asylum Code provides that each member of the Appeals Committee may be assisted by “rapporteurs” provided by EASO.

As of 31 December 2021, 20 Rapporteurs were assisting the Appeals Committees members pursuant to Art. 95(4) IPA.<sup>354</sup> Since they are seconded to the individual Committees, these Rapporteurs are not supervised or line-managed by EASO/EUAA.<sup>355</sup> Data on the number of Rapporteurs regarding 2023 has since not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry’s website “and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”<sup>356</sup>. Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

### **Number of appeals and recognition rates at second instance**

A total of 10,973 appeals were lodged against Asylum Service decisions throughout Greece in 2023, of which 10,013 on the mainland and 960 on the islands.<sup>357</sup> The Independent Appeals Committees handed down a total of 13,032 decisions in 2023 (includes discontinuation, withdrawals, archived cases).<sup>358</sup>

The table below includes decisions on both admissibility and merits, given no separate breakdown is provided with respect to positive appeals decisions. Decisions of other type (e.g. discontinuation, withdrawals, archived cases) are not included in the table.

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<sup>349</sup> Council of State (Plenary), Decisions 1580/2021 and 1581/2021, 8 October 2021, para. 14.

<sup>350</sup> JMD 27290/2020, Gov. Gazette B'4896/6-11-2020.

<sup>351</sup> Article 62(6) L 4375/2016, as inserted by Article 101(2) L 4461/2017.

<sup>352</sup> Article 62(6) L 4375/2016, Article 95(5) IPA.

<sup>353</sup> Article 62(6) L 4375/2016, Article 95(5) IPA, Article 100(5) Asylum Code.

<sup>354</sup> Information provided by the Appeals Authority, 11 March 2022.

<sup>355</sup> ECRE, *The role of EASO operations in national asylum systems*, November 2019, available at: <https://bit.ly/2VNULrd>, p. 18

<sup>356</sup> MoMA, Analysis and Studies Office, Reply to GCR’s request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, received on 14 February 2024 (protocol number: 55259).

<sup>357</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, table 10a.

<sup>358</sup> *Ibid*, table 9b.

Decisions by the Independent Appeals Committees: 2023			
Refugee status	Subsidiary protection	Rejected	Inadmissible
642	218	6,730	5,037

Source: Ministry of Migration and Asylum, Reply of the Ministry to the Greek Parliament, 23 February 2024, available in Greek at: <https://tinyurl.com/bdd5zkar>, pp. 3-4.<sup>359</sup>

As in previous years,<sup>360</sup> the recognition rate at second instance was exceptionally low at 6.59%, even lower than the 11.6% rate in 2022. Out of the total decisions, the rejection rate reached 93.43%, while the refugee recognition rate stood at 4.9 % and the subsidiary protection recognition rate at 1.66 %. The top 5 nationalities granted refugee status at second instance in 2023 were Afghanistan (31.73%), Gambia (20.41%), Ghana (18.39%), Siera Leone (18.07%) and Iraq (17.35%), while the bottom 5 nationalities whose recognition percentage was lower than 1% were India, Nepal, Georgia, Bangladesh and Pakistan<sup>361</sup>.

Out of the 5,037 decisions rejecting appeals as inadmissible, 30% (1,523) rejected them on the grounds that they had been filed after the deadline provided in the law.<sup>362</sup>

### Time limits for lodging an Appeal before the Appeals Committees

An applicant may lodge an Appeal before the Appeals Committees against a first instance decision of the Asylum Service rejecting his or her application for international protection.<sup>363</sup>

The appeal may be lodged against a decision rejecting the application as unfounded under the regular procedure or against the part of the decision that grants subsidiary protection. The deadline for submitting an appeal is 30 days from the notification of the decision or from the date he or she is presumed to have been notified thereof.<sup>364</sup> The deadline is shortened to 20 days if the applicant was notified of the rejection decision while he was in detention.<sup>365</sup>

### Scope of the Appeal

According to Article 102(10) Asylum Code, the Appeals Committees conduct a full and *ex nunc* examination of the asylum application.<sup>366</sup> Based on legal precedents, Committees have the power to carry out their own assessment of the evidence and elements of the file.<sup>367</sup> Contrary to this position, however, some Committees have declared themselves as lacking jurisdiction to examine issues such as the need of the applicant for special procedural guarantees, where the first instance authority concluded that he or she is not vulnerable.<sup>368</sup>

<sup>359</sup> To be noted, some discrepancies seem to exist between the data provided by the MoMA under the referenced Reply, and those published on the Ministry's website. For instance, in the first case, the number of inadmissible decisions is stated at 5,037, while in the second case, it is stated at 5,030. For the data published on the Ministry's website see MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, and for decisions on appeals, specifically table 9b.

<sup>360</sup> See: AIDA, Country Report: Greece, 2020 Update, available at: <https://bit.ly/3BWIPJ3>.

<sup>361</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, p.16.

<sup>362</sup> *Ibid.*, table 9b.

<sup>363</sup> Article 97(1) Asylum Code.

<sup>364</sup> Article 97(1) Asylum Code

<sup>365</sup> Article 97(1) Asylum Code

<sup>366</sup> Council of State (Plenary), Decision 1694/2018, 21 August 2018, para 19.

<sup>367</sup> 19<sup>th</sup> Appeals Committee, Decision 6219/2021, 25 May 2021, para 4; 12<sup>th</sup> Appeals Committee, Decision 56970/2021, 10 June 2021, para A.7; 11<sup>th</sup> Appeals Committee, Decision 59841/2021, 11 June 2021, para 7; 11<sup>th</sup> Appeals Committee, Decision 62800/2021, 14 June 2021, para 9; 3<sup>rd</sup> Appeals Committee, Decision 75059/2021, 18 June 2021, para II.2; 6<sup>th</sup> Appeals Committee, Decision 140330/2021, 21 July 2021, 12; 8<sup>th</sup> Appeals Committee, Decision 1592/2021, 21 July 2021, para 3; 12<sup>th</sup> Appeals Committee, Decision 233902/2021, 9 September 2021, 3.

<sup>368</sup> 6<sup>th</sup> Appeals Committee, Decision 2411/2019, 28 February 2020, para 10; 6<sup>th</sup> Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4.

## Form of the Appeal

According to Article 98 Asylum Code, the appeal shall inter alia be submitted in a written form and mention the “specific grounds” on which the applicant relies to challenge the first instance decision. If these conditions are not fulfilled, the appeal will be rejected as inadmissible without an examination on the merits.

This provision has been largely criticised as it severely restricts access to the appeal procedure in practice, and appears to contradict EU law, namely Article 46 of the recast Asylum Procedures Directive and Article 47 of the EU Charter of Fundamental rights. The requirements set by Article 93 IPA and maintained by the Asylum Code, in practice, can only be fulfilled when a lawyer assists the applicant, which remains a challenge, considering the gaps in the provision of free legal aid. Namely, out of the total 10,973 appeals against first instance negative decisions submitted during 2023,<sup>369</sup> legal aid was provided in less than two out of three cases (total of 6,892 cases or roughly 62% of cases).<sup>370</sup> As noted in previous years,<sup>371</sup> since it is unlikely that such a percentage of appellants (in this case 4,081 or roughly 38%) had either sufficient funds to secure a private lawyer and/ or access to free legal aid provided by NGOs, the aforementioned discrepancy highlights the ongoing difficulties that applicants face in accessing and securing state funded free legal aid at appeal stage as provided by law.

Accordingly, as stated by the UNHCR, “[i]n some circumstances, it would be so difficult to appeal against a rejection that the right to an effective remedy enshrined in international and EU law, would be seriously compromised”.<sup>372</sup> Moreover, as noted “the obligation for the applicant to provide specific reasons instead of simply requesting the ex nunc examination of his/her application for international protection, does not seem to be in accordance with the [Asylum Procedural Directive]”.<sup>373</sup>

In 2021, the number of the appeals rejected pursuant to Article 93 IPA doubled in comparison to 2020 (53 Decisions) yet still remained relatively low (110 Decisions) as the Appeals Committees interpreted said provision broadly and considered that even appeals written by the applicants in his/her native language and without mentioning “specific grounds” were admissibly lodged. More recent data concerning the number of appeals rejected pursuant to Article 93 IPA (currently 98 Asylum Code) was not provided, even though it was requested by GCR. Instead, following GCR’s relevant January 2024 request for information, the MoMA replied by referring GCR to the Ministry’s website “and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”.<sup>374</sup> Yet a closer look at the public sources referenced by the MoMA highlights that the specific data is not available.

## Suspensive effect

Appeals before the Appeals Authority had automatic suspensive effect in all procedures under the previous law. The IPA abolished the automatic suspensive effect for certain appeals,<sup>375</sup> in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. The Asylum Code that came into force in the second half of 2022 has maintained these provisions. In such cases, the appellant may submit an application before the Appeals Committees, requesting their stay in the country until the second-instance appeal decision is issued. Suspensive effect

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<sup>369</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, table 10a.

<sup>370</sup> As per data provided pursuant to Parliamentary question [4099/201/02.04.2024](https://www.parliament.gr/parliamentary-question/4099/201/02.04.2024).

<sup>371</sup> For instance, AIDA report on Greece: 2021 update, May 2022, available at: <https://tinyurl.com/3a8u24w5>, 20. and AIDA report on Greece: 2022 update, June 2023, available at: <https://tinyurl.com/3a8u24w5>, 71.

<sup>372</sup> UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.

<sup>373</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the Law on ‘International Protection and other Provisions’ (Greece)*, February 2020, available at: <https://bit.ly/31Oh4zm>.

<sup>374</sup> MoMA, Analysis and Studies Office, Reply to GCR’s request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, received on 14 February 2024 (protocol number: 55259).

<sup>375</sup> Article 104(2) IPA and Article 110(2) Asylum Code.



covers the period “during the time limit provided for an appeal and until the notification of the decision on the appeal”.<sup>376</sup>

More precisely, according to Article 110 of the Asylum Code,<sup>377</sup> the appeal does not have an automatic suspensive effect in case of an appeal against a first instance decision rejecting the application as inadmissible:

- i) because another EU Member State has granted international protection status;
- ii) because another State, bound by Regulation (EU) No 604/2013 of the European Parliament and of the Council, has taken responsibility for the examination of the application for international protection, pursuant to the Regulation
- iii) by virtue of the first country of asylum concept;
- iv) because the application is a subsequent application, in which no new elements or findings have been found during the preliminary examination; in case of an appeal against a second subsequent asylum application, and in a number of cases examined under the Accelerated Procedure.

In its report “Comments on the Draft Law of the Ministry of Immigration and Asylum”, the National Commission for Human Rights remarked that, while the abolition of the automatic suspensive effect of an appeal against a decision rejecting an application for international protection is in principle in conformity with Union law, an appeal against a return or removal decision pursuant to Article 6 par. 6 or 8 par. 3 respectively of the Directive, should automatically have a suspensive effect as this decision may expose the third country national to a real risk of treatment contrary to the Charter of Fundamental Rights of the European Union in conjunction with Article 33 of the Geneva Convention.<sup>378</sup> As further noted by FRA:

*“If a return decision were to be implemented before a final decision on international protection, this would also undermine the right to asylum (Article 18 of the Charter) and the principle of non-refoulement (Article 19 of the Charter and Article 3 of the ECHR) as interpreted by the CJEU and the ECtHR in their respective case law. Closely connecting or merging the two procedural steps must not lead to the reduction of safeguards which are necessary to ensure that Articles 18 and 19 of the Charter are not circumvented.”<sup>379</sup>*

The practice of the Appeals Committees in 2022 and 2023 showed that the requirement of a separate request for suspensive effect under Article 104(2) IPA and Article 110(2) Asylum Code has introduced a superfluous procedural step, as the Committees systematically dismiss requests for suspensive effect as having no object (*άνευ αντικειμένου*), after having issued a positive or negative decision on the merits of the appeal, since the abovementioned application is examined on the date of the hearing of the case and the relevant ruling is included in the decision issued upon the appeal..

In 2021, 4,653 requests were submitted to the Appeals Authority to stay in the country until the second-instance decision has been issued. During the reference period, the Appeals Authority issued 4,476 second instance decisions rejecting requests for suspensive effect and ordering the removal of the appellant.<sup>380</sup> Relevant data for 2022 and 2023 was not provided.

## **Procedure before the Appeals Authority**

<sup>376</sup> Article 104(1) IPA and Article 110(1) Asylum Code.

<sup>377</sup> Article 104 L. 4636/2019 as amended by Article 20 L. 4825/2021 and Article 110 Asylum Code.

<sup>378</sup> National Commission for Human Rights, *Comments on the Draft Law of the Ministry of Immigration and Asylum*, July 2021, available in Greek at: <https://bit.ly/3v6QkZ2>.

<sup>379</sup> European Union Agency for Fundamental Rights (FRA), *The recast Return Directive and its fundamental rights implications, FRA Opinion – 1/2019* [Return], 10 January 2019, available at: <https://bit.ly/3jk4aC0>.

<sup>380</sup> Information provided by the Appeals Authority, March 2022.

**Written procedure:** As a rule, the procedure before the Appeals Committee is conducted in writing and the examination of the Appeal is based on the elements in the case file.<sup>381</sup> The Appeals Committees shall invite the appellant to an oral hearing when:<sup>382</sup>

- (a) The appeal is lodged against a decision which withdraws the international protection status (see [Cessation and Withdrawal](#));
- (b) Issues or doubts are raised relating to the comprehensiveness of the appellant's interview at first instance;
- (c) The appellant has submitted substantial new elements

Under L 4375/2016, the appellant could also be invited to an oral hearing if the case presented particular complexities,<sup>383</sup> which is no longer the case.

Data on the number of appellants invited to an oral hearing before the Appeals Committee have since not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]".<sup>384</sup> Yet a closer look at the public sources referred to by the MoMA highlights that the specific data is not available.

Article 105 IPA first provided for the prohibition of the Appeals Committee to revert a case back to the Asylum Service for a new first instance interview. This prohibition posed difficulties for cases which were rejected by the Asylum Service as inadmissible on Safe Third Country grounds. In such cases, rejected asylum seekers had only been interviewed at first instance on points relating to the "safe third country" concept and not on the merits of their claim. Appeals Committees did not adopt a consistent approach: while some ordered an oral hearing for the applicant to substantiate their application on the merits,<sup>385</sup> others proceeded directly to an assessment of the case *sur dossier*. This resulted in grants of subsidiary protection to applicants on the basis that they did not meet the criteria for refugee status, even though they were never requested to provide information on their reasons for fleeing their country of origin, e.g., Syria.<sup>386</sup> In 2021, 250 appellants were invited for an oral hearing before the Appeals Committees.<sup>387</sup> Article 111 of the Asylum Code, whilst maintaining the prohibition on reverting cases back to the first instance, provides that in cases when the Appeals Committee considers it necessary to hold an interview, the interview shall be conducted by the Committee itself, in accordance with the provisions of Article 82.<sup>388</sup> The Council of State held that the above provision on the prohibition of reverting cases back to the Asylum Service is compliant with the EU Directive 2013/32/EU, since the interview conducted by the Appeals Committee with the applicant ensures the respect of requirements and guarantees provided in the Directive for the personal interview<sup>389</sup>.

**Obligation of the Appellant to be present before the Appeals Committees on the day of the examination:** Despite the fact that the procedure before the Appeals Committees remains written without hearings as a rule, Articles 102(2) and 83(3) of the Asylum Code impose an obligation on the appellant

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<sup>381</sup> Article 102(1) Asylum Code.

<sup>382</sup> Article 102(3) Asylum Code.

<sup>383</sup> Article 62(1)(d) L 4375/2016.

<sup>384</sup> MoMA, Analysis and Studies Office, Reply to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, received on 14 February 2024 (protocol number: 55259).

<sup>385</sup> 21<sup>st</sup> Appeals Committee, Decision 29458/2020, 19 November 2020; 10<sup>th</sup> Appeals Committee, Decision 22083/2020, 28 April 2021; 5<sup>th</sup> Appeals Committee, Decision 202299/2021, 25 August 2021; 21<sup>st</sup> Appeals Committee, Decision 364000/2021, 4 November 2021; 21<sup>st</sup> Appeals Committee, Decision 398486/2021, 19 November 2021.

<sup>386</sup> 5<sup>th</sup> Appeals Committee, Decision 12366/2020, 14 September 2020; 5<sup>th</sup> Appeals Committee, Decision 12365/2020, 2 October 2020; 21<sup>st</sup> Appeals Committee, Decision 28217/2020, 7 December 2020; 10<sup>th</sup> Appeals Committee, Decision 25173/2020, 19 November 2021; 20<sup>th</sup> Appeals Committee, Decision 29118/2020, 19 November 2021.

<sup>387</sup> Information provided by the Appeals Authority, 2022.

<sup>388</sup> Article 111 Asylum Code.

<sup>389</sup> Council of State, Decision Nr. 689/2021, March 2021.

to personally appear before the Appeals Committee on the day of the examination of their appeals on penalty of rejection of their appeal as “manifestly unfounded”.<sup>390</sup> This is an obligation imposed on the appellant even if s/he has not been called for an oral hearing, though exceptions are provided where:

- a) The appellant resides in a RIC or Accommodation Centre, in which case a written certification of the Head of the RIC or the Accommodation Centre can be sent to the Committee prior to the date of the examination, certifying that s/he remains there. This certification must have been issued no more than three days prior of the examination of the appeal.<sup>391</sup>
- b) A geographical limitation or an obligation to reside in a given place of residence has been imposed on the appellant, in which case a declaration signed by the appellant and authenticitised by the Police or the Citizens Service Centre (KEP), can be sent to the Appeals Committee, prior to the date of the examination. This authentication must have been issued no more than three days prior to the examination of the appeal.<sup>392</sup>

In both cases, article 83(3)(β) Asylum Code provides that if the aforementioned certificates are not received by the Appeals Authority, the applicant shall be deemed to have implicitly withdrawn his/her appeal in accordance with the provisions of Article 86 Asylum Code. Alternatively, in both cases, the appellant’s lawyer or other authorised adviser can appear instead before the Committee on behalf of the appellant. This possibility is subject to the appellant having such an authorised representative.

Lastly, the appellant’s obligation to present themselves before the Appeals Authority is temporarily suspended in case of *force majeure*, such as serious illness or serious physical disability, which makes it impossible for the appellant to appear in person, for as long as the grounds constituting *force majeure* remain in effect. In such a case, the appellant must submit a request, citing in a concrete manner the grounds amounting to *force majeure* or insurmountable impediment which makes it impossible for them to appear in person, and must immediately substantiate their allegation through written evidence and relevant certificates or a certificate from a public authority. Where it is established that these grounds exist, and provided that the applicant appears in person before the competent authorities, the consequences of failure to appear are waived.<sup>393</sup>

Evidently, these provisions impose an unnecessary administrative obligation (in-person appearance of the applicant/lawyer as well as transmission of extra certifications) and a disproportionate “penalty”, as the in-merits rejection of an appeal without examination of the substance raises serious concerns as to the effectiveness of the remedy and the principle of *non-refoulement*. This obligation, first imposed by the IPA and maintained by the Asylum Code, also disregards the criticism that the law on asylum “*puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfil*”.<sup>394</sup> As noted by UNHCR already since 2020, these provisions “*are expected to have a negative impact on applicants’ access to the second instance and the proper examination of their appeal, and as such seriously undermine the right to an effective remedy*”.<sup>395</sup> The First Instance Administrative Tribunal of Thessaloniki filed a preliminary request before CJEU on whether the non-presence of the appellant before the Appeals Committees on the day of the examination of their appeal and the rejection thereof as “manifestly unfounded”, without a full and *ex nunc* examination of both facts and points of law, complies with the right to an effective remedy provided in the Article 46 of the Directive 2013/32/EU.<sup>396</sup>

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<sup>390</sup> Article 102(2) Asylum Code.

<sup>391</sup> Article 83(3)(α) Asylum Code.

<sup>392</sup> Article 83(3)(β) Asylum Code.

<sup>393</sup> Article 83(4) Asylum Code.

<sup>394</sup> UNHCR, *UNHCR urges Greece to strengthen safeguards in draft asylum law*, 24 October 2019, available at: <https://bit.ly/3sUeKYZ>.

<sup>395</sup> UNHCR, *UNHCR Comments on the Law on ‘International Protection and other Provisions’ (Greece)*, February 2020, available at: <https://bit.ly/3TdiclG>; *Ibid.*

<sup>396</sup> See First Instance Administrative Court of Thessaloniki, Decision Nr 560/2023, 19 December 2023, available at: <https://tinyurl.com/5n6rm3cp>.

In 2023, 1,599 appeals were rejected as “manifestly unfounded” compared to 1,790 in 2022, without including in the above number the decisions rejecting the appeal as “manifestly unfounded” based on the safe country of origin concept. Currently, there is no available information as to whether these rejections were issued on the basis of provisions imposing the in-person appearance of the appellant or his/her lawyer before the Committee or the communication of certification of residence (Article 83(3) of the Asylum Code to the Committee.<sup>397</sup>

**Examination under a single-member Appeals Committee/three members Appeals Committee:** the IPA provides that appeals are examined under a collegial format by the three members Committee,<sup>398</sup> or in a single judge format for appeals filed after the deadline as well as for certain appeals in the **Accelerated Procedure** and the **Admissibility Procedure**.<sup>399</sup> Following an amendment of the Regulation for the functioning of the Appeals Committees which was adopted in November 2020, the categories of cases examined under a single-judge format has been extended, as all appeals submitted by applicant residing in the hotspot islands (Lesvos, Samos, Chios, Kos, Leros) are examined by a single judge committee irrespectively of the procedure applied.<sup>400</sup>

**Issuance of a Decision:** Article 106 Asylum Code provides that decisions have to be issued as soon as possible and in any case:

- (a) Within thirty (30) days of the hearing of the case in regular procedure cases,
- (b) Within twenty (20) days of the hearing in accelerated procedure case,
- (c) Within ten (10) days of the hearing in cases where the appellant is under administrative detention,
- (d) Within twenty (20) days of the hearing in cases when the application is rejected as inadmissible in accordance with Article 89,

An exception is introduced for priority cases, as the decision must be issued within 15 days of the hearing.

**Notification of second instance decision:** Similar to the fictitious service at first instance, the Asylum Code provides for the possibility of a fictitious service (*πλασματική επίδοση*) of second instance decisions as described above.<sup>401</sup> Once again, considering that the “fictitious” service of the second instance decision triggers the deadline for lodging an appeal, these deadlines for legal remedies against a negative second instance decision may expire without the applicant being actually informed about the decision. Accordingly, it should be noted that the IPA reduced the deadline for lodging a legal remedy before a Court against a second instance negative decision from 60 days to 30 days from the notification of the decision (see below, Judicial review).<sup>402</sup> As noted by the Greek Ombudsman, since the initial introduction of the possibility of a fictitious service in 2018, these provisions “*effectively limit the access of asylum seekers to judicial protection*” and even if “*the need to streamline procedures is understandable ... in a State governed by law, it cannot restrict fundamental democratic guarantees, such as judicial protection*”.<sup>403</sup>

Following the amendment of the IPA in May 2020 which was maintained by the Asylum Code, the right to remain in the country is revoked once the second instance decision is issued, irrespectively of when the decision is communicated.<sup>404</sup> As noted by UNHCR:<sup>405</sup>

*‘UNHCR is concerned that such amendment would allow for the removal of a person from the territory before a second instance decision is notified to him/her. The parallel notification of a*

<sup>397</sup> MoMA, *Statistics published on official ministry website*, available in Greek at: <https://migration.gov.gr/statistika/>, Accessed: 19 February 2024.

<sup>398</sup> Article 116(2) IPA.

<sup>399</sup> Article 116(2) IPA.

<sup>400</sup> Art. 114, Ministerial Decision 26750, Gov. Gazette B’ 4852/4 November 2020.

<sup>401</sup> Article 87 and 108 Asylum Code.

<sup>402</sup> Article 109 IPA.

<sup>403</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιτύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018, available in Greek at: <https://bit.ly/3vSDu54>, pp. 7-8

<sup>404</sup> Article 104(1) IPA, as amended by L. 4686/2020, Article 110 (1) Asylum Code.

<sup>405</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the Draft Law ‘Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A’ 169), 4375/2016 (A’ 51), 4251/2014 (A’ 80) and other Provisions*, 12 June 2020, available at: <https://bit.ly/3wtPV2V>, p. 9.

*negative appeal decision is also undermining the right to judicial protection [...], as persons whose claims are rejected will not be able to submit an application for annulment or an application for suspension in practice, which could ultimately lead to a violation of the principle of non-refoulement. The deprivation of legal stay before a notification of a negative decision has further premature negative repercussions on the enjoyment of the rights of asylum seekers from which they are to be excluded only following the notification of negative decision (e.g. the right to shelter and cash assistance)*'.

Individuals whose asylum applications are rejected at second instance no longer have the status of "asylum seeker",<sup>406</sup> and thus do not benefit from reception conditions.

#### 1.4.2. Judicial review

Applicants for international protection may lodge an application for annulment (*αίτηση ακύρωσης*) of a second instance decision of the Appeals Committees solely before the Administrative Court of First Instance of Athens or Thessaloniki,<sup>407</sup> within 30 days from the notification of the decision.<sup>408</sup>

According to the IPA,<sup>409</sup> following the lodging of the application for annulment, an application for suspension/interim order can be filed. The decision on this single application for temporary protection from removal should be issued within 15 days from the lodging of the application.

The effectiveness of these legal remedies is severely undermined by a number of practical and legal obstacles:

- ❖ The application for annulment and application for suspension/interim order can only be filed by a lawyer. In addition, no legal aid is provided in order to challenge a second instance negative decision. The capacity of NGOs to file such applications is very limited due to high legal fees. The fees for filing an application for annulment varies between 257,80 euros to 318,55 euros, while the fees for filing an application for suspension varies between 145,40 euros to 198,35 euros, depending on the employment status of the lawyer. An additional financial burden required for the hearing of the application for suspension is the notification of the application to the Minister of Migration and Asylum, performed by a bailiff and amounting to 43,40 euros. Additionally, when it comes to the hearing of the application for annulment, if the applicant is not present at the hearing, the submission of a proxy is required, which costs approx. 60-65 euros. Legal aid may only be requested under the general provisions of Greek law,<sup>410</sup> which are in any event not tailored to asylum seekers and cannot be accessed by them in practice due to several obstacles. For example, the request for legal aid is submitted by an application written in Greek; free legal aid is granted only if the legal remedy for which the legal assistance is requested is not considered "manifestly inadmissible" or "manifestly unfounded".<sup>411</sup> As noted by the UN Working Group on Arbitrary Detention "[i]nadequate legal aid is provided for challenging a second instance negative decision on an asylum application, and the capacity of NGOs to file this application is very limited given the number of persons in need of international protection".<sup>412</sup>
- ❖ The application for annulment and application for suspension/interim order do not have an automatic suspensive effect.<sup>413</sup> Therefore between the submission of an application for suspension/interim order and the in-merit decision of the court, there is no guarantee that the applicant will not be removed from the territory.

<sup>406</sup> Article 1(c) Asylum Code.

<sup>407</sup> Article 114 Asylum Code with reference to Article 15(4) L. 3068/2002

<sup>408</sup> Article 115 Asylum Code.

<sup>409</sup> Article 15(6) L 3068/2002, as amended by Article 115 IPA.

<sup>410</sup> Articles 276 and 276A Code of Administrative Procedure.

<sup>411</sup> *Ibid.*

<sup>412</sup> UN Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum: Mission to Greece*, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dL810U>, para. 85.

<sup>413</sup> See, e.g., ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

- ❖ The Administrative Court can only examine the legality of the decision and not the merits of the case.
- ❖ The judicial procedure is lengthy. GCR is aware of cases pending for a period of about two years for the issuance of a decision of the Administrative Court of Appeals following an application for annulment.

Moreover, according to Article 114(2) of the Asylum Code, the Minister on Migration and Asylum also has the right to lodge an application for annulment against the decisions of the Appeals Committee before the Administrative Court. In 2020, the Minister on Migration and Asylum lodged one application for annulment against a second instance decision of the Appeals Committees. The Appeals Committee rejected the Minister's appeal and ruled that an applicant for whom a decision to discontinue the examination of the asylum application due to implicit withdrawal has been issued, cannot be removed before the nine months period during which she can report again to the competent authority in order to request her case be reopened. The Minister appealed to the Council of State which, on 27 June 2022, which issued its decision No. 1398/2022, accepting the Minister's application for annulment.<sup>414</sup>

A total of 191 applications for annulment were lodged before the Administrative Courts of Athens and Thessaloniki against second instance negative decisions throughout 2023, of which only 1 was accepted and 156 were still pending at the end of the year.<sup>415</sup>

During the same period, a total of 940 decisions on applications for annulment were issued, of which 72 were accepted, 247 were rejected as unfounded, 587 were rejected as inadmissible and 34 concerned resignations.<sup>416</sup>

## 1.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance

- Do asylum seekers have access to free legal assistance at first instance in practice?
  - Yes
  - With difficulty
  - No
  - ❖ Does free legal assistance cover:
    - Representation in interview
    - Legal advice
- Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
  - Yes
  - With difficulty
  - No
  - ❖ Does free legal assistance cover
    - Representation in courts
    - Legal advice

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>417</sup>

### Legal assistance at first instance

No state-funded free legal aid is provided at first instance, nor is there a legal obligation to provide it. A number of non-governmental organisations (NGO) provide free legal assistance and counselling to asylum seekers at first instance, depending on their capacity and presence across the country. The scope of these services remains limited, taking into consideration the number of applicants in Greece and the needs throughout the whole asylum procedure – including registration of the application, first and second instance, judicial review and the complexity of the procedures followed, in particular after the entry into force of the IPA. As noted by the UN Working Group on Arbitrary Detention '*[t]he Working Group urges the Government to expand the availability of publicly funded legal aid so that persons seeking international*

<sup>414</sup> Council of State, Decision No. 1398/2022, available in Greek at: <https://bit.ly/45s5Q3e>.

<sup>415</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, table 13a.

<sup>416</sup> *Ibid.*, table 13b.

<sup>417</sup> Article 71(1) IPA and Article 76(1) Asylum Code.

protection have access to legal advice at all stages of the process, from the moment of filing their application until a final determination is made'.<sup>418</sup>

### **Legal assistance at second instance**

Free legal assistance shall be provided to applicants in appeal procedures before the Appeals Authority under the terms and conditions set in the Ministerial Decision 788502/2023.<sup>419</sup> According to the Ministerial Decision 494476/2023, the legal assistance scheme in appeal procedures will be integrated into the program AMIF (Asylum, Migration and Integration Fund) 2021-2027<sup>420</sup>.

The first Ministerial Decision concerning free legal aid to applicants was issued in September 2016.<sup>421</sup> However, the State-funded legal aid scheme on the basis of a list managed by the Asylum Service started operating, for the first time, on 21 September 2017.

According to Joint Ministerial Decision 788502/2023 regulating the State-funded legal aid scheme, asylum seekers are entitled to legal aid as long as they are not represented by another lawyer. The application for legal aid must be filed before the submission of the appeal<sup>422</sup>.

The decision also explicitly provides for the possibility of legal assistance through videoconferencing in every Regional Asylum Office.<sup>423</sup> The fixed fee of the Registry's lawyers is €90 for the drafting and submission of the appeal and of the suspension application if required, €20 for the conclusion of the meeting with the appellant and €50 for the memorandum, regardless of whether the appeal was filed by the applicant within the deadline provided in the law or not. The fees are covered by the State.<sup>424</sup>

In practice requests for legal aid at second instance are mainly submitted through the electronic platform of the Ministry of Migration and Asylum,<sup>425</sup> notably because, as described above, first instance decisions may be notified to the applicants with a registered letter or other ways of notification and applicants' access to RAOs/AAU is not unrestricted but a prior appointment is usually required, depending on the competent RAO/AAU. This may pose additional obstacles to applicants who are unfamiliar with the use of electronic applications or who do not have access to the required equipment/internet. In 2023, during which COVID-19 related restrictions were lifted, applicants continued to be advised to apply online for free legal aid. However, it has been noticed in certain RAOs/AAU that in case of the decision's notification in person to the applicant by the Asylum Service, the applicants are asked whether they would like to file a request for free legal aid in person on the same day and time.

As previously mentioned, a total of 10,973 appeals were lodged against Asylum Service decisions in 2023, the majority of which (28.1%) were filed by appellants from Pakistan, followed by those from Egypt (8.6%), Afghanistan (7.2%), Bangladesh (6.2%) and Albania (6.1%).<sup>426</sup> Data on the number of applicants that were granted free legal assistance at second instance through the Registry of Lawyers of the GAS is not available nor, as has been the case with other information requested by GCR as part of this report, has it been provided following GCR's relevant request for information, to which the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service,

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<sup>418</sup> UN Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum: Mission to Greece*, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dL810U>, para. 85.

<sup>419</sup> Ministerial Decision 788502/2023, Gov. Gazette 42/B/11.01.2023. MD 3449/2021 was repealed by MD 788502/2023 according to Article 6(2) of MD 788502/2023, MD 3686/2020 was repealed by MD 3449/2021 according to Article 6 of MD 3449/2021, MD 12205/2016 was repealed by MD 3686/2020 according to Article 6(2) MD 3686/2020

<sup>420</sup> Ministerial Decision 494476/2023, Gov. Gazette 6393/B/07.11.2023.

<sup>421</sup> Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.

<sup>422</sup> Gov. Gazette 42/B/11.01.2023

<sup>423</sup> Article 1(7) MD 788502/2023.

<sup>424</sup> Article 3 MD 788502/2023.

<sup>425</sup> MoMA, *Asylum Services*, available at: <https://bit.ly/3BPGrCV>.

<sup>426</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/wn2kukaa>, table 10b.

the Asylum Service and the Appeals Authority [...]”<sup>427</sup>. Yet a closer look at the public sources referred to by the MoMA highlights that the specific data is not available.

## 2. Dublin

### 2.1. General

#### Dublin statistics: 1 January – 31 December 2022

National data regarding requests in the Dublin procedure since 2021 are not available at the time of publication of the report, therefore the data below is based on the latest available statistics published by Eurostat.<sup>428</sup>

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	2,030	1,037	Total	8,737	0
Germany	458	218	Germany	6,079	0
Italy	390	148	Croatia	1,268	0
Switzerland	251	324	Belgium	445	0
France	215	70	Italy	374	0
Portugal	188	21	Sweden	144	0

Source: Eurostat.

Outgoing Dublin requests: 2016 - 2021						
Year	2016	2017	2018	2019	2020	2021
Number	4,886	9,784	5,211	5,459	7,014	n/a

GCR does not currently have information regarding the practice of M-S following the CJEU ruling in the *Mengesteab* case and CJEU judgment in C-47/17 and C-48/17, while GCR’s request for relevant information for 2023 from the MoMA was not replied.

Based on GCR’s and other organisations’ experience, during 2022, as in previous years, there were specificities in the handling of cases, based on the Member State the outgoing request is addressed to. Specifically, the Greek Dublin Unit submits all take charge requests within the three-month time limit foreseen in the Regulation.<sup>429</sup> The time starts from the moment an application for international protection is officially registered with the Asylum Service. However, the German authorities, following the ruling of the CJEU in the *Mengesteab* case on 26 July 2017<sup>430</sup> consider that the three-month time limit for sending a request to another country starts when the intention to apply for asylum is expressed; formal registration of the application with the Asylum Service is not required. To avoid rejection letters based on this

<sup>427</sup> MoMA, Analysis and Studies Office, Reply to GCR’s request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, received on 14 February 2024 (protocol number: 55259).

<sup>428</sup> It should be noted that Eurostat statistics related to the implementation of the Dublin III Regulation were last updated in July 2023 and cover the year 2022. According to Eurostat, the next planned statistical update is scheduled for July 2024 and should, presumably, cover the year 2023. See Eurostat, *Statistics on countries responsible for asylum applications (Dublin Regulation)*, July 2023, available at: <https://bit.ly/3z5iLwd>.

<sup>429</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

<sup>430</sup> CJEU, C-670/16, *Tsegezab Mengesteab v Bundesrepublik Deutschland*, Judgment of 26 July 2017, available at: <https://bit.ly/3MXWEuK>.



argument, the Greek Dublin Unit tries to send the take charge requests within three-months from the expression of the intention to apply for asylum.

Regarding family reunification cases, if the Greek Dublin Unit is not informed within three months following the expression of the intention to apply for asylum, but is informed within three months from the registration of the asylum application, it sends the take charge request to the German authorities under the non-discretionary Articles (8, 9, 10), this request will meet the time limit set out in the Regulation.

Furthermore, some Member States' interpretation of the CJEU judgment in the Joined Cases C-47/17 and C-48/17<sup>431</sup> has resulted in rejections of requests. Following this judgment, the German Dublin Unit accepts only one re-examination request for each case and refuses to keep cases open even when further medical tests for the establishment of the family link are pending. The German Dublin Unit claims that there is no possibility to deviate from the deadlines of the Dublin III Regulation. The Netherlands, France, Sweden and the United Kingdom are among the Member States which have also followed the same practice rejecting cases on this ground.

According to GCR's knowledge, the German authorities continue to implement this judgment. NGOs noted that, during 2022, Swedish authorities also rejected cases on this ground.

In general, an extension is requested if a DNA procedure is pending and not expected to be completed within the two-week timeframe. This request is accepted by almost all the Member States, apart from Germany, which might reject a re-examination request on the basis that the results proving the family link were not submitted in due time.

Regarding unanswered re-examination requests, the Greek Dublin Unit tries to address reminders to seek an official reply. Unanswered cases are eventually referred to the regular procedure.

Re-examination requests for several cases addressed to the German Dublin Unit remained unanswered long periods of time which exceeded the two-week time frame mentioned in the CJEU judgment but were eventually answered following reminders by the Greek authorities.

Re-examination requests addressed to the French authorities remained unanswered for months, or even years. Based on GCR's knowledge, there was no response to re-examination requests made in 2017, despite the efforts made by both the Greek authorities and NGOs. These cases are eventually examined on an *ad hoc* basis.

According to NGOs, during 2022 France and Sweden failed to reply to several re-examination requests within the time limit.<sup>432</sup>

### 2.1.1. Application of the Dublin criteria

To the knowledge of GCR, most outgoing requests of previous years took place in the context of family reunification, *i.e.*, application of the family unity criteria. For a "take charge" request to be addressed to the Member State where a family member or a relative resides, the written consent of the family member is required, as well as documents proving the legal status in the receiving country (*e.g.*, residence permit, asylum seeker's card or other documents certifying the submission of an asylum application) and documentation relating to evidence of the family link (*e.g.*, certificate of marriage, civil status, passport, ID).

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<sup>431</sup> CJEU, Joined Cases C-47/17 and C-48/17, X v. Staatssecretaris van Veiligheid en Justitie, Request for a preliminary ruling, Judgment of 13 November 2018, available at: <https://bit.ly/2KpcqiA>.

<sup>432</sup> Information provided by The HOME Project (web page: <https://bit.ly/420UtwA>) and European Expression (web page: <https://bit.ly/42ZtKkX>)

For cases of unaccompanied minors, the written consent of the guardian is required. Based on GCR's experience, an outgoing request will not be sent until the written consent of the relative and the documents proving their legal status in the other Member State is submitted to the Greek Dublin Unit.

On the other hand, inability to provide documents proving the family relationship between the applicant and the family member to the requested Member State is not a sufficient reason for the request not to be sent and/or received. In such cases, the availability of circumstantial evidence is assessed (e.g., photographs of the applicant and the sponsor, statement of the sponsor describing her/his relationship with the applicant, transcript of the sponsor's interview before the authorities of the requested Member State, in which the details of the applicant are mentioned). These cases, though, have little chances to be accepted according to the Greek Dublin Unit.

Family unity is the main way for applicants to enter another Member State safely and legally. However, restrictive practices of requested states such as requirements for official translations of documents proving family links, sometimes unnecessary DNA tests to prove the applicant's family ties, age assessments of unaccompanied children to be conducted according to the requested State's methods, often result in the rejection of the 'take charge' requests.

Apart from the general criteria applied to every case falling under the Dublin III Regulation, nuances have been observed on the way the family unity criteria are applied by different Member States. Germany, for example, refused the responsibility for applicants who could not prove their relationship with the person they wished to be reunited with, while other countries were taking into consideration circumstantial evidence and may have conducted interviews with the family members/ relatives.

However, in 2022, according to NGOs, Germany accepted circumstantial evidence while France did not. Italy is reportedly more flexible than other Member States on that issue. Furthermore, only documents in English or the official language of the requested Member State are considered by the Dublin Units of some of the Member States. GCR could not obtain similar information as to the application of the family unity criteria in other Member States in 2023.

According to information provided by the Greek Dublin Unit, Afghan identification documents and documents provided by other nationals, such as Somali nationals, are not considered by Germany's BAMF as viable evidence to prove the family link, given that they could easily be forged. According to NGOs, in 2022 Germany and Sweden doubted the authenticity of Somali identification documents and asked for a DNA test. GCR could not obtain similar information for 2023.

Most of the Member States, consider the requirement of the DNA test to be the last resort, while other, such as Spain and Ireland request a DNA test regardless of the submission of identification documents. German Authorities have also rejected cases due to lack of DNA test results regardless of submission of identification documents and circumstantial evidence. Sweden and the Netherlands, requested for DNA results proving the kinship, especially regarding applications on grounds other than Article 9 and 10 Dublin III Regulation.

Since 2017, Dublin Units have increasingly refused requests in cases of subsequent separation of family members who entered Greece and applied for asylum prior to departure to another Member State on the basis that the family separation was 'self-inflicted' and was contrary to the best interests of the child. The Greek Authorities have partially adopted this reasoning.

According to a circular of the Asylum Service from January 2020, such requests should not be sent, and the cases should be referred to the regular procedure. The same would apply in cases where minors were subsequently separated from their family and travelled to another Member State. The only exception is when another Member State specifically asks for a take charge request.

In any case, an assessment of each case always precedes the referral to the regular procedure. Based on GCR's experience, such requests have been accepted by the authorities of Sweden, Switzerland and Luxembourg while German Authorities rejected them arguing that the family was together at the time the

application for international protection was lodged (Article 7 par. 2 Dublin III Regulation) and that the humanitarian grounds of Article 17 (2) do not apply. They also sometimes argue that further consideration of such cases would undermine the meaning of the Regulation, which is to 'prevent secondary movement'.

However, in two cases dealt with in 2022, Germany accepted a "humanitarian clause" request for the reunification of parents with their two daughters in Germany, one of whom had arrived there after having submitted an asylum application in Greece,<sup>433</sup> as well the reunification of two brothers in a case of a subsequent separation.<sup>434</sup> In contrast, Belgium rejected a request based on Article 17(2) of the Regulation regarding a family with a minor son, on the basis that the mother's departure from Greece after the family's application had been submitted was not in the best interests of her child.<sup>435</sup> GCR is not aware of similar cases in 2023.

It is also difficult to establish a family relationship in cases of marriages by proxy, as they may not be recognised by the receiving State's domestic law. GCR is aware of at least one such case of family reunification that was rejected by the German Authorities, because the applicant's spouse was already present in the requested Member State's territory when the marriage ceremony took place.

### **Unaccompanied children**

On 22 July 2022, L 4960/2022 on the National Guardianship System and Framework of Accommodation of UAMs entered into force,<sup>436</sup> replacing former law L4554/2018 on guardianship, which was never implemented in practice.

New provisions on guardianship and accommodation were inserted in the third part of the Asylum Code regarding Reception. Under the new legislative provisions general competency was transferred from the National Centre for Social Solidarity of the Ministry of Labour and Social Affairs to the Special Secretary for the Protection of Unaccompanied Minors (SSPUAM) now General Secretariat for Vulnerable Persons and Institutional Protection.

Under the new law, the provision of guardianship is relegated to a list of legal entities appointed by the Public Prosecutor (*i.e.*, public entities, NGOs, international organizations) who collaborate with persons acting as guardians. The Public Prosecutor can also appoint a child's family member or friend to be responsible for their everyday care.

At the end of October 2023, the NGOs METAdrasi and Praksis were announced by the Ministry of Migration and Asylum as the finalist candidates entrusted with the implementation of the National Guardianship scheme, following a public procurement procedure. The project officially begun on 1<sup>st</sup> November 2023 and, according to its design, the first two months consisted of preparatory actions (trainings, prioritization of cases, etc.) while, at the time of writing, guardians are deployed and started work. (See D [Guarantees for vulnerable groups 4. Legal representation of unaccompanied children](#))

The number of applications for family reunification of unaccompanied minors before the Asylum Service in 2023 is not available.

In August 2018, the Greek Dublin Unit introduced the Best Interests Assessment (BIA) Form to support unaccompanied minors claims under Dublin Regulation 604/2013. The BIA Form aims to gather and assess all necessary information required by Member States to assess the family reunification requests of unaccompanied minors and is an indispensable element of take-charge requests. UNHCR, UNICEF

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<sup>433</sup> Information provided by RSA.

<sup>434</sup> Information provided by European Expression.

<sup>435</sup> Information provided by RSA.

<sup>436</sup> L 4960/2022 *National Guardianship System and Framework of Accommodation of UAMs and other provisions under the jurisdiction of the MoMA.*

and EASO contributed to the development of the BIA while the National Dublin Unit considered tools and reports used by many other bodies, local organizations and NGO's.<sup>437</sup>

On 2 August 2023, the General Secretariat for Vulnerable Persons and Institutional Protection of the Ministry of Migration and Asylum launched the pilot implementation of a new Toolkit, in the framework of the project "Harmonization, Establishment and Certification of Best Interests Procedures", with a view to establish standardized tools and harmonize the best interest assessment procedure of the child.

The aim of the project, in line with the National Strategy for the Protection of Unaccompanied Minors, is to harmonize the best interest procedures in Greece, by using standardized best interest assessment forms and by having the assessment process carried out by experienced and trained professionals.

The project has been implemented since November 2022, in cooperation with UNHCR and the European Union Agency for Asylum.<sup>438</sup>

The submission of the best interest assessment does not necessarily lead to the acceptance of a take charge request, since other elements are also taken into consideration by the requested Member States, although no such requirement is provided in Article 8 Dublin III Regulation. These elements are considered evidence of the relative's ability to support the minor applicant. GCR is aware of cases in which house contracts, photos of the place where the minor will be accommodated in the relative's house and proof of income have been requested to prove the family member's or/and relative's ability to take care of the applicant. According to NGOs, Italy requests house contract and tax declaration.

Other countries appoint social workers to contact the relative on their territory and the child with the aim to assess whether it would be in the child's best interest to be reunited with the family member/ relative. According to NGOs, France always conducts interviews with the relatives residing in the country while in one case, Italian authorities exceptionally called for an interview with family members of the minor due to insufficient information available in the file.

Another factor that is being considered while assessing the best interest of the minor, is the existence of a family member/ relative in the requesting Member State. Although the mere existence of a relative does not change the legal status of the minors as unaccompanied, some Member States misinterpret the best interest of the minors by considering them accompanied. Based on that argument, they reject family reunification requests of unaccompanied minors and therefore, prevent them from being reunited with a closer family member.

Although the best interest of the minor should be of primary consideration when examining a family reunification request, the requested Member States proceed with the assessment of the case under the Dublin III Regulation in all take charge requests addressed to them. Spain, for instance, does not examine requests of unaccompanied minors based on articles other than Article 8 of the Regulation. In one case handled by GCR, the Spanish Dublin Unit stated that all requests concerning minors are to be examined under the criteria of article 8, while Article 17(2) was not applicable in this case as this is not considered to be a discretionary case by the Spanish Authorities. Thus, the case was finally rejected in 2021, without due consideration of the Best Interest Assessment Form and no explanation for the rejection was provided as required under Article 17(2) of the Regulation EU 604/2013. The practice continued in 2022 and, according to NGOs, France adopted the same practice of not examining requests that are based on other grounds than Art 8 of the Regulation. GCR is not in a position to confirm whether this remains the case in 2023.

GCR is also aware of the case of an unaccompanied minor who applied to be reunited with his uncle who is a German citizen. His application was rejected in 2021 by the German authorities because, according

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<sup>437</sup> For more, *AIDA – Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>, p. 72 *et seq.*

<sup>438</sup> See the MoMA's website under "Dublin III Regulation" at: <https://bit.ly/3Vy0MWZ>; MoMA, *General Secretariat for Vulnerable Persons and Institutional Protection of the Ministry of Migration and Asylum launches new Toolkit on Best Interests Procedures*, 18 August 2023, available at: <https://tinyurl.com/4za42e7a>.

to the rejection letter, the Dublin III Regulation is not applicable in such cases. Yet, this reasoning is contradictory to Article 8 of the Regulation, which requires for the family member or/ and relative to be legally present. The best interest of the minor and the documents submitted to support the case were not taken into consideration. However, in 2022, France accepted the family reunification request of a minor with his aunt who holds the French citizenship.<sup>439</sup> GCR is not aware of such cases in 2023.

When applicants are not able to provide identification documents, DNA tests is the only way to prove the family link. However, based on GCR's experience in previous years, some countries require a DNA test as a rule to be able to assess family links.

Age assessments is another matter that might affect the outcome and the processing time of a reunification request. Based on GCR's experience in previous years, Member States question the results of the age assessments of unaccompanied children which were not conducted according to their own methods.

### 2.1.2. The dependent persons and discretionary clauses

Outgoing requests under the humanitarian clause concern mainly dependent and vulnerable persons and are sent either when Articles 8-11 and 16 are not applicable or in cases where the three-month timeframe has expired regardless of the reason. Article 17(2) has been widely used for cases of subsequent separation as well as in the beginning of 2021 for cases in which the deadline for transfer was not met, on account of the added challenges posed by the Covid-19 pandemic.

### 2.1.3. The relocation scheme

In March 2020, the Commission launched a relocation scheme, under which vulnerable people from Greece would be transferred to other EU Member States, in an effort to support Greece in managing the disproportionate pressure on its reception system. Unaccompanied children and children with severe medical conditions who were accompanied by their families, were the two categories of persons of concern who could be included in the programme,<sup>440</sup> if they have arrived in Greece before 1 March 2020 and if they have no possibility to be reunited with a family member in another Member State. Sixteen EU countries participated in this scheme, including France, Germany, Luxembourg, Portugal and Bulgaria. The Commission implemented this programme with the assistance of UNHCR, IOM and UNICEF, following the eligibility criteria set in the relevant SOPs, which GCR was not able to obtain. Homeless children, children living in precarious conditions, such as safe zone areas in camps and minors being previously detained, were considered eligible for the program.

The process for the relocation of UAM consisted of three phases:<sup>441</sup>

- ❖ Phase 1: the preparatory phase, in which a list of identified unaccompanied minors was drafted and shared by the Special Secretary of Unaccompanied Minors with the Greek Asylum Service and then with EASO.
- ❖ Phase 2: a Best Interest Assessment interview takes place, during which the eligibility of each minor was assessed. The procedure was led by EASO with the support of UNHCR and the child protection partners. After the completion of the interview, the assessment and any other supportive documentation were submitted to the Greek Authorities and the receiving countries.
- ❖ Phase 3 and last phase: the transfer of the person to the Member State which accepted the responsibility for them. Prior to this final step, some countries, such as France, used to hold another interview at their Consulate or Embassy in Greece. This interview is called 'security

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<sup>439</sup> Information provided by the NGO European Expression.

<sup>440</sup> European Commission, *Relocation of unaccompanied children from Greece to Portugal and to Finland – Questions and answers*, 7 July 2020, available at: <https://bit.ly/2OGowty>.

<sup>441</sup> UNHCR, *Explainer: Relocation of unaccompanied children from Greece to other EU countries*, 25 August 2020, available at: <https://bit.ly/2RrhwlN>

*interview*'. Prior to the transfer, the selected minor was accommodated to transitional facilities run by IOM, for the necessary administrative procedures and medical examinations take place.

A minor's case is not definitively excluded from the relocation programme should the case not be accepted by a Member State. On the contrary, the applicant is internally proposed to another State for relocation. A person is excluded only if they refuse in writing to be transferred to the Member State which has accepted responsibility for the case. This refusal is considered as evidence that the person does not wish to be included in the programme.

Although the eligibility criteria might differ based on the Member State, some criteria seemed to be unnegotiable. An applicant could not be included to the programme in cases where a family reunification request under the Dublin III Regulation is pending, or a decision on first instance regarding the application for international protection has already been issued by the Greek authorities. Furthermore, applicants who have been accused or convicted of committing a crime, regardless of its severity, would be considered ineligible for relocation. Criteria based on ethnicity, nationality, sex and age were not set.

During 2023, 635 individuals were relocated to other EU Member States under the voluntary relocation scheme as well as 55 unaccompanied minors during the first 3 months of 2023.<sup>442</sup> The scheme ended in March 2023, following the last departure of 15 children to Portugal. According to the MoMA, from the scheme's operationalisation up to its end, a total of 1,368 unaccompanied children were safely transferred to other countries.

In June 2022, 21 European countries also agreed to establish a Voluntary Solidarity Mechanism (VSM), supported with EU funds, in order to address challenges facing the Mediterranean Member States (Cyprus, Greece, Italy, Malta, and Spain) through relocation to other European Union Member States and associated countries, or through financial contributions.<sup>443</sup>

## 2.2. Procedure

### Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?  
 Yes  No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?  
Not available

There are no specific legal provisions in the Asylum Code regulating the Dublin procedure. Examination for the responsibility of another member state is a part of the regular procedure.

Applications are rejected as inadmissible if another member state is found responsible for the examination of an asylum claim (art 89 1(b) of the Asylum Code)

The Dublin procedure is handled by the Dublin Unit of the Asylum Service in Athens. Regional Asylum Offices are competent for registering applications and thus potential Dublin cases, as well as for notifying applicants of decisions after the determination by responsible Member State has been carried out. Regional Asylum Offices are also competent for receiving pending cases' documents and uploading them to an online system of the Asylum Service, to which the Dublin Unit has access.

EUAA also assists the authorities in the Dublin procedure. According to the 2022-2024 Operational Plan with the Agency, amended in April 2022 to consider the changes in the operational context in light of the invasion of Ukraine,<sup>444</sup> EUAA provides support in processing outgoing requests and information requests

<sup>442</sup> Ministry of Migration and Asylum, *Statistics*, available at: <https://bit.ly/3OuNZm9>.

<sup>443</sup> French Presidency of the Council of the European Union, First step in the gradual implementation of the New Pact on Migration and Asylum: modus operandi of a voluntary solidarity mechanism, 22 June 2022, available at: <https://tinyurl.com/mcm778wy>.

<sup>444</sup> EUAA, *Operational Plan 2022-2024 agreed by the European Union Agency for Asylum and Greece*, 1 April 2022, available at: <https://bit.ly/420NLHL>.

- Support in processing incoming requests only after agreement on SOPs, training, tools and reporting
- Support in enhancing processing capacity for transfers
- Provision of interpretation services for information provision and other activities of the Dublin Unit (face face-to- face and remote).

Most administrative procedures, such as the submission of documentation, booking of appointments, receiving copies of an applicant's file, are conducted only online. Physical presence in the context of Dublin procedures is only required at the registration stage, during which the asylum seeker is being fingerprinted, and must sign the relevant written consent.

Applications for international protection cannot be lodged if the person refuses to be fingerprinted. In case of refusal, the person will remain undocumented. The fingerprints are crosschecked in the police's database for possible Eurodac hits. GCR is not aware of any person who refused to be fingerprinted.

Where an asylum application is being lodged in Greece and the authorities consider that another Member State is responsible for examining the application, Greece must issue a request for that Member State to take charge of the applicant no later than three months after the lodging of the application, in accordance with Article 21 of the Dublin III Regulation. However, following a change of practice on the part of the German Dublin Unit following the CJEU's ruling in *Mengesteab*, the Greek Dublin Unit strives to send "take charge" requests within three months of the expression of the will to seek international protection, rather than the lodging of the claim by the Asylum Service, although Greece considers the actual lodging of the application and not the expression of a will to seek asylum as the starting point of this three-month deadline.

The applicant is not officially informed by the Greek Dublin Unit of the fact that the request has been made, nor on the basis of what evidence. It is the asylum seekers legal representative who is following up the procedure and provides the applicant with feedback on the steps that have been made. Dublin Unit officers contact the applicant directly only if the case has been rejected, in order to request for supplementary documentation, which will be included in the re-examination request. In case of a final rejection, no written information is provided to the applicant. In practice, the case is internally referred to the regular procedure. On the contrary, if the reunification request is accepted, an inadmissibility decision mentioning that the requested Member State is responsible to examine the asylum application, based on the provisions of the Regulation (EU) 604/2013 is delivered to the applicant.

Given the severe restrictions posed by other Member States on family reunification, as above-described, the Dublin Unit consistently prepares for a rejection and anticipates re-examination requests.<sup>445</sup>

A change in statistical practices of the Dublin Unit was noted since 2020, as the publication of monthly statistics of the Unit stopped in March 2020 to be substituted by Monthly Reports issued by the Ministry of Migration and Asylum.<sup>446</sup> These Reports include some but not all the data previously provided by the monthly statistics of the Greek Dublin Unit.

### 2.2.1. Individualised guarantees

During 2022, the Greek Dublin Unit continued to request individual guarantees concerning the reception conditions and access to the asylum procedure for Dublin returnees.<sup>447</sup> There is no data as to the practice in 2023.

With regards to take charge requests, most of the transfers concern family reunification cases and, therefore, the applicants have explicitly expressed their will to move to the third country.

For children's Best Interest Assessment, see above, section on application of the Dublin criteria.

<sup>445</sup> ECRE, *The Role of EASO Operations in National Asylum Systems*, 29 November 2019, available at: <https://bit.ly/46lkjHB>.

<sup>446</sup> Monthly reports of the Ministry of Migration and Asylum are available at: <https://bit.ly/3OFIP83>.

<sup>447</sup> AIDA, *The Implementation of the Dublin III Regulation in 2022*, November 2023, p. 19, available at: <https://bit.ly/3smFIYS>

## 2.2.2. Transfers

Based on GCR's experience, transfers under the Dublin III Regulation are carried out by the Asylum Service, with the assistance of EUAA personnel. The Transfer Department of the Dublin Unit follows the transfer procedure. The department coordinates with the responsible travel agency for the tickets to be booked and sent to the applicants and/or their legal representative in due time. Before the transfer takes place, the Dublin Unit submits medical documents to the airline company, as well as the requested Member State. On the day of transfer, an employee from the Department of Foreign Affairs meets the applicants at the airport in order to provide them with a *laissez-passer*, help them with the check-in and boarding. The above-mentioned information regarding the transfer is forwarded to the asylum seekers by the Greek Dublin Unit, along with the tickets. Travel costs are covered by the Asylum Service.

During 2023, transfers of asylum seekers, including unaccompanied minors, in the context of family reunification ("Dublin III") were suspended due to the termination of the contract for the provision of air transport services and the delay of the procedure for the conclusion of the new one between the Department of Immigration and Asylum and the travel agency.

Following a report from an accommodation Structure for unaccompanied minors and the intervention of the Greek Ombudsman, the process was completed and transfers restarted.<sup>448</sup>

During May and June 2023, 66 outgoing transfers were implemented under the Dublin procedure. According to a notification on Ministry's website "Statistics on Dublin Transfers are not currently available for the period of July 2023 - December 2023 due to the upgrade of the computer system carried out by the Services of the Ministry of Immigration and Asylum." There have been no other data available in relation to the numbers and types of requests for 2023 as of the publication of this report.<sup>449</sup>

Outgoing Dublin transfers by month: 2023												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
-	-	-	-	-	50	16	-	-	-	-	-	66

Source: Hellenic Republic, Ministry of Migration and Asylum, Statistics available at: <https://bit.ly/3uyzclG>.

## 2.3. Personal interview

### Indicators: Dublin: Personal Interview

Same as regular procedure

- Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?  Yes  No  
 ❖ If so, are interpreters available in practice, for interviews?  Yes  No
- Are interviews conducted through video conferencing?  Frequently  Rarely  Never

Questions relating to the Dublin procedure (e.g., on the presence of other family members in another Member States) are always addressed to the applicant during the [Regular Procedure: Personal Interview](#) examining the asylum claim. According to GCR's experience, applicants who at this later stage, well after the three-month deadline, express their will to be reunited with a close family member in another EU Member State, have the chance to apply for family reunification. In several cases handled by GCR, the

<sup>448</sup> Greek Ombudsman, *Resumption of transfers of unaccompanied minors in the context of family reunification ("Dublin III") following the Ombudsman's intervention*, 27 November 2023, available in Greek at: <https://tinyurl.com/yb73uyu6>.

<sup>449</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 17.



Dublin Unit strives to send the outgoing request as soon as possible, after the written consent and all necessary documents have been submitted.

Interviews in non-family reunification cases tend to be more detailed when it is ascertained that an asylum seeker, after being fingerprinted, has already applied for asylum in another EU Member State.

## 2.4. Appeal

### Indicators: Dublin: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

❖ If yes, is it

❖ If yes, is it suspensive

Yes  No

Judicial

Administrative

Yes  No

According to the Asylum code, applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>450</sup> An applicant can lodge an appeal before the Independent Appeals Committees under the Appeals Authority against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>451</sup> Such an appeal can also be directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>452</sup>

## 2.5. Legal assistance

### Indicators: Dublin: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

❖ Does free legal assistance cover:

Yes

With difficulty

No

Representation in interview

Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

❖ Does free legal assistance cover

Yes

With difficulty

No

Representation in courts

Legal advice

Access to free legal assistance and representation in the context of a Dublin procedure is available under the same conditions and limitations described in [Regular Procedure: Legal Assistance](#). No state funded free legal aid is provided in first instance, including Dublin cases. The same problems and obstacles described in the regular procedure exist in the context of the Dublin procedure, with NGOs trying in practice to cover this field as well.

As concerns family reunification cases, limited access to legal assistance affects the proper preparation of the case file as it is the applicant who bears the responsibility for submitting the required documents for the Dublin Unit to establish a take charge request, such as proof of family links. Nevertheless, in GCR's experience, the Dublin Unit officers make every effort to notify applicants on time for the submission of any missing document before the expiry of the deadline.

<sup>450</sup> Article 89(1) (b) asylum code

<sup>451</sup> Article 97 (1) (d)(i) asylum code

<sup>452</sup> *Ibid.*

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?  Yes  No
- ❖ If yes, to which country or countries?

To the knowledge of the GRC, there is no suspension of transfers to any Member State in either policy or jurisprudence.

## 2.7. The situation of Dublin returnees

Transfers of asylum seekers from another Member State to Greece under the Dublin Regulation had been suspended since 2011, following the *M.S.S. v. Belgium & Greece* ruling of the ECtHR and the Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department* ruling of the CJEU.<sup>453</sup>

Following three recommendations issued to Greece in the course of 2016,<sup>454</sup> and despite the fact that the Greek asylum and reception system remained under significant pressure, due to the closure of the so-called Balkan corridor and the adoption of the EU-Türkiye Statement, the European Commission issued a Fourth Recommendation on 8 December 2016 in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.<sup>455</sup> Persons belonging to vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers, according to the Recommendation.<sup>456</sup>

The National Commission for Human Rights in a Statement dated 19 December 2016, expressed its “grave concern” with regard to the Commission Recommendation and noted that:<sup>457</sup>

‘it should be recalled that all refugee reception and protection mechanisms in Greece are undergoing tremendous pressure... the GNCHR reiterates its established positions, insisting that the only possible and effective solution is the immediate modification of the EU migration policy and in particular the Dublin system, which was proven to be inconsistent with the current needs and incompatible with the effective protection of human rights as well as the principles of solidarity and burden-sharing among the EU Member-States.’

An interesting court ruling was issued in Germany in January 2021 and sets the protection threshold to a level that corresponds to the actual situation in Greece.<sup>458</sup> According to this decision, returns to Greece

<sup>453</sup> ECtHR, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011; CJEU, Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department*, Judgment of 21 December 2011.

<sup>454</sup> Commission Recommendation of 10 February 2016, C(2016) 871; Commission Recommendation of 15 June 2016, C(2016) 2805; Commission Recommendation of 28 September 2016, C(2016) 6311.

<sup>455</sup> Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525. For a critique, see OnMed, *Doctors of the World Greece: The return of refugees to Greece in 2017 is disastrous*, 17 December 2016, available in Greek at: <https://tinyurl.com/mtuwxupm>; Amnesty International, *EU pressure on Greece for Dublin returns is ‘hypocritical’*, 8 December 2016, available at: <http://bit.ly/2kG8Dzf>; Human Rights Watch, *EU: Returns to Greece Put Refugees at Risk*, 10 December 2016, available at: <http://bit.ly/2hgVaNi>; ECRE, GCR, Aitima and SolidarityNow, *Letter to the President of the European Commission and the Greek Minister of Migration Policy ‘Re: Joint Action Plan on EU-Türkiye Statement and resumption of Dublin transfers to Greece’*, 15 December 2016, available at: <http://bit.ly/2kGcc8P>; National Commission for Human Rights, *Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system*, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>456</sup> Commission Recommendation C(2016) 8525, para 9.

<sup>457</sup> National Commission for Human Rights, *Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system*, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>458</sup> Germany, Higher Administrative Court of North Rhine-Westphalia (Oberverwaltungsgerichte/Verwaltungsgerichtshöfe), Applicant v The Federal Republic of Germany, represented by Federal Office for Migration and Refugees, No 11 A 1564 / 20.A, ECLI:DE:OVGNRW:2021:0121.11A1564.20A.00, 21 January 2021, available at: <https://tinyurl.com/5cnyrx7c>.

are expected to put migrants at serious risk of degrading treatment due to inadequate living conditions for beneficiaries of international protection. The court also noted that the COVID-19 situation and restrictions pose additional hardship for refugees, specifically to access the labour market.<sup>459</sup> This judgment seems to be in line with the case law of both the ECtHR and the CJEU that confirms that it is not necessary to show 'systemic deficiencies' for a transfer to be unlawful and that any source of risk is reason enough.<sup>460</sup>

However, overall, domestic European courts have taken diverging stances regarding transfers to Greece.<sup>461</sup> In 2021, High Administrative Courts in Germany, the Dutch Council of State and the Belgium Council on Alien Litigation Law all ruled that returning beneficiaries of international protection to Greece runs the risk of reaching the threshold of Article 3 ECHR.<sup>462</sup> While still not formally suspending transfers, the Austrian Constitutional Court and High Administrative Court nevertheless both ruled that such transfers have to be assessed thoroughly, especially vis-à-vis access to social services upon return.<sup>463</sup> On the other hand, courts in both Switzerland and Norway have held that returning beneficiaries of international protection to Greece does not infringe the prohibition of inhuman and degrading treatment.<sup>464</sup>

Dublin returnees face serious difficulties both in re-accessing the asylum procedure and reception conditions (which are virtually inexistent) upon return.<sup>465</sup> In fact, returnees face the risk of being subjected to onward *refoulement* to Türkiye, following the designation of Türkiye as a safe third country in 2021 (see [Safe third country concept](#)).

In another case, a beneficiary of international protection was returned from Germany to Greece at the beginning of July 2021. The asylum application which the beneficiary submitted before the German Authorities was rejected as inadmissible, since his case had already been examined by the Greek Asylum Service, which recognised him as a refugee, even though the person was never informed about it. Although the Court accepted that living conditions for beneficiaries of international protection in Greece are "undoubtedly harsh" also taking into account that beneficiaries are not entitled to accommodation as provided in the case of asylum seekers, it assumed that healthy, single and young individuals would nevertheless somehow be able to survive under these conditions. Upon his return, the beneficiary was handed to the Airport Police Department and was provided with a 10-day duration police note. According to this note, he should visit the Asylum Service to proceed with his case. Eight months after his arrival into Greece, no residence permit has been delivered, no health insurance and tax numbers have been issued, no action for accommodation has been taken due to lack of identification documents.<sup>466</sup>

Finally, it should be mentioned that applicants who are subject to the EU-Türkiye statement and left the islands in breach of the geographical restriction imposed on them, will be returned to said island upon return to Greece from another Member State within the framework of the Dublin Regulation, by virtue of

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<sup>459</sup> Full case summary can be found at EUAA Case Law Database, available at: <https://bit.ly/3VyJskz>.

<sup>460</sup> European Parliamentary Research Service, *Dublin Regulation on international protection applications*, February 2020, available at: <https://bit.ly/2PLN19g>, p. 57.

<sup>461</sup> See, in general, ECRE, AIDA, *The implementation of the Dublin III Regulation in 2022*, November 2023, available at: <https://bit.ly/3smFIYS>.

<sup>462</sup> See, e.g., German: <https://bit.ly/3WCfeNM>, <https://bit.ly/3ZSjyd4> and <https://bit.ly/3BWabhG>; Netherlands: <https://bit.ly/45I7aiH>; Belgium: <https://bit.ly/3rOuMD4> and <https://bit.ly/45t5CZD>.

<sup>463</sup> See, e.g., <https://bit.ly/45snK4l> and <https://bit.ly/3ZQDnRp>.

<sup>464</sup> See, e.g., Switzerland Federal Administrative Court, 8 October 2021, available in German at: <https://bit.ly/3IEcLfm>.

<sup>465</sup> RSA, *Dublin returns to Greece*, 21 October 2021, available at: <https://bit.ly/3tHwi7T>: 'At the moment, the Greek reception system is undergoing a gradual transformation through the dismantling of open housing facilities in favour of large-scale 'closed controlled centres', while a coherent policy to support integration of people granted international protection is still lacking. Despite these circumstances, EU Member States and Schengen Associated Countries continue to send thousands of Dublin take back requests to return asylum seekers to Greece. In line with a Recommendation<sup>465</sup> from the European Commission, Dublin transfers to Greece are carried out following the provision of individual assurances by the Greek Dublin Unit relating to the treatment of returnees in line with the EU asylum *acquis*.'

<sup>466</sup> RSA, *Recognised refugee returned to Greece, destitute, forgotten and undocumented*, 4 March 2022, available at: <https://bit.ly/3K0Mt6l>; See for instance, AIDA, *The Implementation of the Dublin III Regulation in 2022*, November 2023, available at: <https://bit.ly/3smFIYS> p. 23, footnote 85.

a 2016 police circular.<sup>467</sup> Their application will be examined under the fast-track border procedure, which offers limited guarantees.<sup>468</sup>

For further information about the situation of beneficiaries of international protection returned to Greece, see 'Return of beneficiaries of international protection to Greece' under [Housing](#).

### 3. Admissibility procedure

#### 3.1. General (scope, criteria, time limits)

Under Article 89 Asylum Code, an application can be considered inadmissible on the following grounds:

- ❖ Another EU Member State has granted international protection status to the applicant;
- ❖ Another EU Member State has accepted responsibility under the Dublin Regulation for the applicant;
- ❖ When the [First Country of Asylum concept](#) is applied;
- ❖ When the [Safe Third Country concept](#) is applied;
- ❖ The application is a [Subsequent Application](#) and no “new essential elements” have been presented;
- ❖ A family member has submitted a separate application to the family application without justification for lodging a separate claim.

Unless otherwise provided, the Asylum Service must decide on the admissibility of an application within 30 days.<sup>469</sup>

Article 91(5) Asylum Code, transposing Article 38(4) of Directive 2013/32/EU (Asylum Procedures Directive), provides that where the third country to which an applicant is meant to be returned does not allow the applicant to enter its territory, his/her application shall be examined on the merits by the Competent Examination Authorities.

The examination of the safe third country concept in practice used to take place under the scope of the fast-track border procedure since 2016. More specifically, up until June 2021 it was applied exclusively to Syrian nationals who fell under the EU Türkiye Statement, meaning those who had entered Greece via the Greek Aegean islands and who were subject to a geographical restriction. Syrians whose geographical limitation was lifted were then channelled to the mainland and were examined under the regular procedure. The situation changed significantly in 2021 following the Joint Ministerial Decision issued on 7 June 2021, designating Türkiye as a safe third country (STC) for asylum applicants coming from Syria, Afghanistan, Somalia, Pakistan and Bangladesh.<sup>470</sup>

Apart from the numerous concerns that have been repeatedly raised as to whether Türkiye should be considered a “safe third country”,<sup>471</sup> an additional significant element of the unfeasibility of this new decision is the fact that Türkiye has not been accepting any readmissions from Greece since March 2020.<sup>472</sup> As a consequence, refugees whose applications have been/are rejected as inadmissible based on the “safe third country” concept end up in a state of legal limbo in Greece, exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application .

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<sup>467</sup> Police Circular No 1604/16/1195968, available in Greek at: <https://tinyurl.com/ye85mfbc>.

<sup>468</sup> See to this regard: RSA/PRO ASYLI, *Legal Status and Living Conditions of a Syrian asylum-seeker upon his return to Greece under the Dublin Regulation*, December 2019, available at: <https://bit.ly/3fMEfzH>.

<sup>469</sup> Article 88(2) Asylum Code. Different deadlines are provided, e.g, for subsequent applications; when the safe third country concept is examined under the fast-track border procedure, etc.

<sup>470</sup> Joint Ministerial Decision (JMD) 42799/2021, Gov. Gazette 2425/B/7-6-2021, available in Greek at: <https://tinyurl.com/2z8588nb> .

<sup>471</sup> Indicatively see: GCR, *Greece deems Turkey 'safe', but refugees are not: The substantive examination of asylum applications is the only safe solution for refugees*, 14 June 2021, available at: <https://bit.ly/3E3qgCe>.

<sup>472</sup> For instance see: MoMA, *New request from Greece for the return of 1.908 illegal economic migrants to Türkiye*, 28 July 2021, available at: <https://bit.ly/3rl5bhy>; European Commission, *Commission Staff Working Document: Türkiye 2020 Report*, 6 October 2020, <https://bit.ly/3xgt4aK>, p. 48.

The Commissioner for Migration and Home Affairs of the European Commission has reiterated several times the importance of examining the merits of these applications for international protection, in accordance with EU law.<sup>473</sup> On 7 December 2021, the Commissioner issued a response to a joint open letter by civil society organisations, where she reiterated the Commission’s continued concerns over individuals left in “legal limbo” in Greece.<sup>474</sup> As she stated, “in line with Article 38(4) of the Asylum Procedures Directive, the Greek authorities should ensure that applicants whose applications have been declared inadmissible under the Joint Ministerial Decision and who are not being admitted to Türkiye should be given access to the in-merits asylum procedure”.<sup>475</sup>

According to UNHCR’s position and recommendations on the Safe Third Country declaration by Greece:<sup>476</sup>

‘The absence of a mutually agreed readmission arrangement or delay in the implementation elevates the risk of protracted detention and situations of legal limbo for those concerned who may not be readmitted, increasing human misery and in all likelihood, fuelling further onward movement within the EU. Where cooperation is not mutually agreed to, or required protection safeguards are not in place, an in-merit examination of asylum claims of applicants of those nationality groups should take place without undue delay to avoid legal limbo situations.’

According to a Communication from the European Commission to the Council and the European Parliament, ‘[r]esponding to repeated requests from the Greek authorities and the European Commission regarding the resumption of return operations, Türkiye has stated that no return operation would take place unless the alleged pushbacks along the Turkish-Greek border stop and Greece revokes its decision to consider Türkiye a Safe Third Country’ (24 May 2022).<sup>477</sup>

Despite the fact that readmissions to Türkiye have been suspended since March 2020, the Asylum Service continues not to apply Article 38(4) of the Procedures Directive to applicants whose application is examined on the admissibility under the safe third country concept vis-à-vis Türkiye. Thus, applicants subject to the Joint Ministerial Decision, whose applications have been rejected as inadmissible, are deprived of access to an in-merits asylum procedure and they face the risk to remain in legal limbo, without access to reception conditions and health care and at risk of detention.

In 2023, a total of 64.212 new asylum applications were registered in Greece, 57,891 of which were first time asylum applications and 6,321 subsequent asylum applications.<sup>478</sup> Of the total (disaggregated data is not available), close to half (47.5%) were submitted by nationalities impacted by the JMD and specifically 21,8% by Syrian nationals, 14,8% by Afghan nationals, 6,3% by Pakistani nationals and 4,6% by Somali nationals.<sup>479</sup>

It should be noted that an application for the annulment of the JMD was submitted before the Greek Council of State and its examination was discussed on 11 March 2022.<sup>480</sup> In a decision issued on 3 February 2023,<sup>481</sup> the Council of State referred a question to the CJEU for a preliminary ruling on the

<sup>473</sup> Answers given by Ms Johansson on behalf of the European Commission, EN P-000604/2021, 1 June 2021, available at: <https://bit.ly/47Zw2Te>; E-003875/2021, 18 October 2021, available at: <https://bit.ly/4ak50In>; E-004131/2021, 21 December 2021, available at: <https://bit.ly/3RtSNJu>.

<sup>474</sup> Joint CSO Open Letter, *Denying food: instead of receiving protection people go hungry on EU soil*, 26 October 2021, available at: <https://bit.ly/3uyeEEb>.

<sup>475</sup> Ylva Johansson, *Response to the 26 October 2021 Joint CSO Open Letter*, Ares S(2021)8048555, 7 December 2021, available at: <https://bit.ly/3Jyt7V4>.

<sup>476</sup> UNHCR, *UNHCR’s Position and Recommendations on the Safe Third Country Declaration by Greece*, 2 August 2021, available at: <https://bit.ly/3EuyKm1>.

<sup>477</sup> European Commission, *Communication from the Commission to the Council and the European Parliament - sixth annual report on the Facility for Refugees in Turkey*, 24 May 2022, available at: <https://bit.ly/417mB1B>, p.3.

<sup>478</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 8c.

<sup>479</sup> *Ibid.* table 8d.

<sup>480</sup> GCR, “Εκδικάστηκε ενώπιον του ΣΤΕ η αίτηση ακύρωσης της Απόφασης με την οποία η Τουρκία χαρακτηρίστηκε ασφαλής τρίτη χώρα”, 15 March 2022, available in Greek at: <https://bit.ly/365HUJ9>.

<sup>481</sup> Plenary of the Council of State, Decision no 177/2023, 3 February 2022, available in Greek at: <https://bit.ly/3Gs6GSc>.

interpretation of article 38 of 2013/32/EU Directive, since Türkiye has not accepted any readmissions from Greece since March 2020. In particular, the majority opinion of the Council considered that it is not possible to designate a country as a safe third country if the readmission of the applicant to that country does not appear to be possible. This possibility should be assessed both in terms of legal provisions and obligations of the third country to accept readmissions as well as the actual compliance to those legal provisions. Readmissions to Türkiye are not implemented and the competent authority did not adequately explore the possibility of Türkiye changing its stance. Thus, in view of ensuring a quick examination of asylum applications,<sup>482</sup> the national list established by the JMD should be annulled.

The decision includes two dissenting opinions on whether the non-implementation of returns should be taken into consideration either at the time of issuance of an individual decision on the asylum application assessing whether Türkiye is a safe third country or at the time of executing the decision of return and not before including this country in the national list of safe third countries.

According to the majority opinion: “[...] *Article 38(4) [Asylum Procedures Directive] does not provide the possibility of entry or readmission of a foreigner to the third country as a condition for the application of the safe third country concept. However, according to constant CJEU case law, the interpretation of a provision of European Union law shall take into consideration not only its letter but also the context in which it is introduced, as well as the objectives pursued by the measure of which it forms part (see indicatively ECJ, C-232/82, Merck, 17 November 1983, paragraph 18, and CJEU, C-202/18 και C-238/18, Rimšēvičs and ECB v Latvia, 26 March 2019, paragraph 45). In the present case, in view of Article 18 of the Charter (aforementioned paragraph 8), the provisions of [the Asylum Procedures Directive] relating to inadmissible applications for international protection must be interpreted in such a way as to serve the purported objective of the Directive to safeguard rapid examination of applications for international protection insofar as possible (see CJEU, C-556/17 Torubarov, 29 July 2019, paragraph 53). This objective is set out in recital 18 of the Directive [...]*

*Under that reading, Article 38 of the Directive (and corresponding Article 86 [IPA]) must be interpreted as precluding the designation of a third country as safe where it is not established that entry or readmission of the applicant protection thereto will not be feasible. A contrary reading would merely prolong the duration of examination of the submitted application for international protection and uncertainty on the applicant as regards the status of their stay in the country where they submitted an application, without excluding the risk of their refoulement to a country where they risk facing persecution (mutatis mutandis European Commission on Human Rights, A.H. [Harabi] v. the Netherlands, App No 10798/84, 5 March 1986) and the possibility of disruption in international relations of states. The view that the possibility of entry or readmission of a foreign applicant for protection to a third country constitutes a condition for the designation of a third country as safe has, besides, been set out in soft law texts of the Council of Europe (Committee of Ministers Recommendation R(97)22 and Guidelines of 1 July 2009) and has been supported by part of the international law doctrine (in particular Stephen H. Legomsky, Secondary Refugee Movements and the Return of Asylum Seekers to Third Countries: The Meaning of Effective Protection, International Journal of Refugee Law, 2003, p. 567 et seq.), while it has been adopted by courts of other European Union Member States (see Dutch Council of State, decision 201609584/1/V3 of 13 December 2017). Furthermore, the assessment of fulfilment of the possibility of entry or readmission of the foreigner to the safe third country encompasses an examination of both the legal framework in said country (i.e. potential undertaking of a related legal obligation on the part of the third country) and compliance of the third country with its undertaken legal obligations in practice. The above observations lead to the conclusion that, where a Member State establishes a national list of generally safe third countries by making use of the discretion afforded by Article 38(2) of the Directive, it may not, for reasons of rapid conclusion of the examination of applications for international protection as mentioned above, make a regulatory designation of a third country as safe where the fulfilment of the aforementioned condition – the possibility of entry or readmission to said country – is not assessed on both its aforementioned limbs.[...]*

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<sup>482</sup> As provided by Article 18 of the Charter of Fundamental Rights and Article 38 of EU Directive 2013/32/EU.

[para 41] However, as regards its second limb, relating to Türkiye's compliance with its legal obligations in practice, the same condition is not fulfilled since readmission to Türkiye is not being carried out for applicants for international protection whose applications have been dismissed as inadmissible on "safe third country" grounds. On the contrary, as expressly stated in the service note of the Procedures and Training Section of the Asylum Service of 3 December 2021 (p. 8), which accompanies the recommendation of the Director of the Asylum Service no 438958/21 of 7 December 2021 following which the contested Joint Ministerial Decision was issued... "From March 2020 to present [therefore for a period exceeding twenty months] returns from Greece to Türkiye have frozen", without any distinction as to the legal basis on which returns are ordered (international agreements or EU-Turkey Statement, as stated above). It also cannot be accepted, as submitted by the State... that it is a temporary "and more or less justified non-implementation [of the statement of 18 March 2016 due to the circumstances]" ("Türkiye temporarily, due to the COVID pandemic, a global and undeniable event), does not accept readmissions over the last period") is not supported by the elements of the file [...]."

Given that reasonable doubts arose as to the meaning of Article 38 of the Directive, the Court postponed its final judgement and formulated preliminary questions to the CJEU. The Court requested clarification as to whether Article 38 of the Directive should be interpreted as precluding national (regulatory) provisions, which characterises a third country as generally safe for certain categories of applicants for international protection and that country has undertaken the legal obligation to readmit those categories of applicants to its territory, despite the fact that the country that is considered as safe third country has refused readmissions for a period of over twenty months; or whether the readmission to the third country is a cumulative condition for the issuance of the national (regulatory) act, according to which a third country is characterised as generally safe for certain categories of applicants for international protection, or for the issuance of the individual act, according to which a specific application for international protection is rejected as inadmissible on the "safe third country" ground; or, finally, whether the readmission to the "safe third country" should only be determined at the time of the decision's execution, when the decision to reject the application for international protection is based on the "safe third country" ground.

On 14 March 2024, the preliminary questions referred by the Plenary of the Council of State in its judgment No 177/2023 concerning the inclusion of Türkiye in the national list of "safe third countries" was discussed in an oral hearing before the CJEU in Luxembourg,<sup>483</sup> while the opinion of the advocate general is expected to be issued in June 2024.

The JMD 42799/3-6-2021 declaring Türkiye as a safe third country was amended by Decision No. 458568/2021 (FEK 5949/16-12-2021) to include Albania and Northern Macedonia as safe third countries for all nationals entering Greece from the countries listed.<sup>484</sup>

In December 2022, JMD 734214/6-12-2022 was issued, confirming the continuity and full validity of the amended JMD 42799/3-6-2021.<sup>485</sup> Respectively, in December 2023, JMD 538595/12-12-2023 (FEK 7063/15-12-2023) was issued, following the 485728/31-10-2023 "Recommendation regarding the establishment of the national list of safe third countries according to art. 91 Law 4939/2022" of the Director of the Asylum Service, repeating the content of the amended JMD 42799/3-6-2021.<sup>486</sup>

In 2023, 3.454 asylum applications were found inadmissible at first instance based on the "safe third country" concept.<sup>487</sup> Additionally, 1.319 asylum applications were found inadmissible at second instance, including 1.237 in which Türkiye was the "safe third country", 57 where it was North Macedonia and 25 where it was Albania.<sup>488</sup>

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<sup>483</sup> GCR & RSA, *Hearing before the Court of Justice of the European Union on Thursday 14 March on the preliminary questions of the Greek Council of State regarding Turkey as a "safe third country"*, 13 March 2024, available at: <https://tinyurl.com/8jwbaccz>. See also ECRE, Newsletter, "Greece: [...] — CJEU Hearing on Designation of Türkiye as a "Safe Third Country", 15 March 2024, available at: <https://tinyurl.com/5n8b2etb>

<sup>484</sup> FEK 5949/16-12-2021, available in Greek at: <https://tinyurl.com/5dauc7e8>.

<sup>485</sup> JMD 734214/6-12-2022, available in Greek at: <https://bit.ly/3TMbGY3>.

<sup>486</sup> JMD 538595/12-12-2023 (FEK 7063/15-12-2023), available in Greek at: <https://tinyurl.com/2nntzpw6>.

<sup>487</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 9a.

<sup>488</sup> *Ibid.*, table 9b.

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?  
 Yes  No
  - ❖ If so, are questions limited to nationality, identity, travel route? Depends on grounds
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined.

According to Article 94(2) Asylum Code, as a rule, no interview should be held during the preliminary examination of a subsequent application. The examination of a subsequent application takes place only through written submissions and submitted documents together with the elements of the first asylum application. The interview is conducted only if the subsequent application for asylum is deemed admissible (see section on [Subsequent Applications](#)). As regards the process for Dublin cases, see section on [Dublin](#).

Personal interviews in cases examined under the “safe third country” concept focus on the circumstances that the applicants face in Türkiye and specifically on:

- ❖ whether they have applied for international protection in Türkiye and;
- ❖ if not, which reasons prevented them from doing so;
- ❖ whether they have family and friends in Türkiye;
- ❖ how long they remained in Türkiye;
- ❖ if they had access to work, housing, education and health care;
- ❖ and in general, if Türkiye is a safe country for them.

Since 1 January 2020, it is possible for the admissibility interview to be carried out by personnel of EUAA or, in particularly urgent circumstances, trained personnel of the Hellenic Police or the Armed Forces. The training needs to be in international human rights law, EU Law on Asylum and the procedures for conducting interviews.<sup>489</sup> Such personnel are not allowed to wear military or law enforcement uniforms during interviews.<sup>490</sup> However, EUAA caseworkers do not draft Opinions on cases where the JMD 42799/2021 designating Türkiye as a safe third country applies, as it falls outside their competence.<sup>491</sup> Instead, EUAA caseworkers, following the interview, can send to Asylum Service caseworkers an annex with notes and comments on crucial issues to be taken into consideration.<sup>492</sup>

In 2023, in **Samos, Kos, Lesbos** and **Chios**, admissibility interviews were conducted before an adequate vulnerability assessment had been completed.<sup>493</sup> Furthermore, in general, no reasonable time has been provided before the admissibility interview for applicants to access information on asylum procedures, legal aid, prepare for the interview and collect and submit significant documents/evidence in support of their application for international protection.<sup>494</sup>

<sup>489</sup> Article 82(1) Asylum Code.

<sup>490</sup> Article 82(12) (c) Asylum Code.

<sup>491</sup> Information provided by the EUAA, 28 February 2023.

<sup>492</sup> In response to an information request submitted by ECRE for the year 2023, the EUAA answered on 26 February 2024 that “[t]he number of concluding remarks issued by EUAA decreased to 776 in 2023, a significant drop compared to 2022 (5,071). This is due to the fact that, following the June 2021 Joint Ministerial Decision designating Turkey as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility”.

<sup>493</sup> Information obtained during Legal Aid Working Group meetings, 2023.

<sup>494</sup> Ibid.



Even if indications of vulnerability arose during an asylum interview, caseworkers did not refer applicants to psychosocial assessments and/or further medical examination at a general hospital, although this is provided for in art. 77 and 41 of Asylum Code.<sup>495</sup>

In Chios CCAC (Vial camp), the Medical Unit has no doctor since March 2021. In 2023, periodically, the doctor of Leros CCAC Medical Unit was visiting Chios CCAC only to sign pre-completed – by generally unauthorized personnel – vulnerability assessment documents and medical cards with references to apparent vulnerabilities, without carrying out himself a substantive assessment of the medical condition of the asylum applicants.<sup>496</sup>

According to internal SOPs, circulated within the Asylum Service in the autumn of 2021, asylum seekers from the 5 nationalities affected by the JMD (Syria, Afghanistan, Somalia, Pakistan and Bangladesh), who have entered Greece from Türkiye and have stayed in Greece for a year or more must be considered as not having a special link/connection with the third country (*i.e.*, Türkiye) or that in any case the special link/connection has ceased to exist (See [Safe third country](#)).

In **Kos**, from approximately August 2023 to mid-December 2023, probably due to backlog connected to increased new arrivals and personnel shortages, RAO was conducting admissibility interviews only for Syrian nationals.<sup>497</sup> Moreover, during the same period, it has been observed that admissibility interviews, in several cases, were limited to superficially examining the criterion of connection of Syrian applicants with Türkiye. Instead, safety or other criteria had not been examined and/or taken into consideration for the decision (*i.e.*, well-founded fear of deportation to country of origin, racist attacks, detention, lack of legal documentation, non-access to healthcare, labour market and education, etc.).

Moreover, it has been observed that stateless persons who had one of the 5 countries of the JMD on STC as countries of their habitual residence were included in the admissibility procedure.<sup>498</sup> This practice applied despite the fact that this category of asylum seekers (stateless persons with one of the 5 countries of JMD as countries of habitual residence) is not explicitly mentioned in the relevant JMD on STC and Türkiye. Within this context, Palestinians with last habitual residence in Syria were examined under the admissibility procedure.

In February 2023, **Kos RAO** found admissible the asylum application of a stateless single woman of Palestinian origin with last habitual residence in Syria, taking into account “(a) *that the applicant remained in Turkey for more than one year, yet without knowing the Turkish language and without having established social, professional or cultural ties with Turkey, (b) that she does not have a family or other support network in Turkey; (c) that she left Turkey at the end of 2022 and remains in Greece throughout this period, the Service concludes that her connection with Turkey cannot be considered sufficient.*”<sup>499</sup>

On 10 February 2023, the 16<sup>th</sup> Independent Appeals Committee annulled the first instance negative decision of Lesvos RAO that considered inadmissible the asylum application of a Somali single woman who survived a shipwreck on 6 October 2022 off Lesvos island, where 16 asylum seeking women died.<sup>500</sup> The applicant had to undergo an admissibility interview already on 17 October 2022, only 10 days after the deadly shipwreck, while her vulnerability assessment had not been concluded, nor had it been explored during the interview. The shipwreck was never mentioned by the caseworker, nor was it mentioned in the negative decision that was issued two days after the interview. On appeal, the 16<sup>th</sup> Appeals Committee, annulled the decision of Lesvos RAO, as it considered that Türkiye is not a safe third country for the Somali single woman and summoned the applicant to an oral hearing on 7 March 2023 to examine her application on the merits.

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<sup>495</sup> Ibid.

<sup>496</sup> Information shared by Chios UNCHR Field Office.

<sup>497</sup> Information obtained during Kos Legal Aid Working Group meeting of 13 December 2023.

<sup>498</sup> Information shared by different actors, including GCR, during Legal Aid Working Group meetings, 2023.

<sup>499</sup> Decision 97412/2023 issued by Kos RAO (ΠΓΑ Κω 97412/2013). Case represented before Kos RAO by Equal Rights Beyond Borders. Summary of the decision available in Greek in GCR/HIAS/RSA, *Greek Asylum Case Law Report Issue 1/2023*, available at: <https://tinyurl.com/2meam8kv>.

<sup>500</sup> See a relative newsarticle in: Ertnews, *Tragedy with 17 dead in a shipwreck in Lesvos - Shocking videos from the shipwreck in Kythera*, 6 October 2022, available in Greek at: <https://tinyurl.com/4npb6je3>.

Based on legal aid organizations' observations, including GCR, in practice, the Asylum Service did not issue nor notify applicants of their admissibility decisions. As a result, many applicants received an invitation to a personal interview for the in-merits assessment of their asylum claim before RAOs without prior information on the admissibility decision and the next step of the procedure, thus not being able to prepare for the interview. On the other hand, in **Lesvos, Kos and Chios**, applicants from Syria and Afghanistan who had an admissibility interview and their applications were found admissible did not have an in merits interview; instead, their asylum applications were examined on the basis of their administrative file and, in general, were accepted, without undergoing an asylum interview on the merits. In practice, the Asylum Service notified applicants directly of their positive decisions with reference to their admissibility decisions.

In 2023, the issue of the use of outdated sources in a number of decisions for cases especially concerning the examination of the safe third country concept vis-a-vis Türkiye still remains. For instance, the decisions refer *inter alia* to the 2019 and 2020 updates of the AIDA country report on Türkiye, to other reports published in 2017 and 2018, and to letters sent by the Permanent Delegation of Türkiye to the European Commission and by the European Commission to the Greek General Secretary of Migration Policy in April and May 2016 in the context of the EU-Turkey Statement.<sup>501</sup>

### 3.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- ❖ If yes, is it  Yes  No
- ❖ If yes, is it automatically suspensive  Judicial  Administrative
- Yes  Some grounds  No

According to the Asylum Code, the deadlines for appealing an inadmissibility decision, the automatic suspensive effect of appeals and the format of the Committee examining them depend on the inadmissibility ground invoked in the first instance decision under the regular procedure:<sup>502</sup>

Time limits and automatic suspensive effect: Appeals against inadmissibility			
Ground	Deadline (days)	Suspensive	Format
Protection in another EU Member State	20	×	Single judge
Dublin	15	√	Single judge
First country of asylum	20	×	Collegial
Safe third country	20	√	Collegial
Subsequent application with no new elements	5	×	Single judge
Application by a dependent	20	√	Single judge

The Appeals Committee must decide on the appeal within 20 days, as opposed to 30 days in the regular procedure.<sup>503</sup>

Appeals Committees do not apply Art. 38(4) of the Procedures Directive with regard to applications having been rejected as inadmissible on the basis of the safe third Country concept vis-à-vis Türkiye, despite the fact that readmissions to Türkiye have been suspended since March 2020. It is only in a limited number of cases that the Appeals Committees have proceeded to an in-merits examination of the application,

<sup>501</sup> As evidenced by decisions received by GCR's beneficiaries. See also PROASYL & RSA, *The Concept of "Safe Third Country": Legal Standards & Implementation in the Greek Asylum System*, February 2024, available at: <https://tinyurl.com/rh6cte8t>, p. 10.

<sup>502</sup> Article 97(d). It should be noted that the deadline for appealing against decisions issued under the provision of Article 95 Asylum Code (border procedure) is 10 days.

<sup>503</sup> Article 101 (d) L4636/2019, as amended by Article 25 (d) L4686/2020.

invoking *inter alia* Article 38(4) of the Procedures Directive when taking into consideration the suspension of readmissions to Türkiye.<sup>504</sup>

In February 2023, the 10<sup>th</sup> Appeals Committee considered that the Asylum Service unlawfully rejected the asylum application of a single Somali woman as inadmissible on the ground of the existence of a safe third country, taking into account *inter alia* the suspension of readmissions to Türkiye.<sup>505</sup> Specifically, the Committee in its decision held that: *“Because information indicates that already from March 2020 Turkey does not accept the return of migrants/refugees who entered Greece irregularly from its territory in accordance with the EU-Turkey Joint Declaration of 18 March 2016 (and the bilateral Readmission Protocol between Greece and Turkey). For this refusal of returns, the Turkish authorities invoke movement restrictions due to the Covid-19 pandemic. A recent European Commission report notes that “in response to repeated requests from the Greek authorities and the European Commission, regarding the resumption of return operations, Turkey has stated that no return operation will be carried out unless the alleged pushbacks along the Turkish-Greek border stop and Greece revokes its decision to consider Turkey as a safe third country”. Finally, according to the ECRE’s July 2022 report, the implementation of the EU-Turkey readmission agreement continued to remain frozen during 2021 and therefore no readmissions to Turkey took place in 2021. [,,,] Since, in the light of the foregoing, the Committee takes note of the fact that, since the beginning of the year 2020, Turkey does not accept readmissions. Moreover, despite the approximately four months - staying of the applicant in Turkey and the circumstances that she claims to have encountered during her stay, since, according to her, she was hiding from the authorities, the Committee takes into account the applicant’s gender, that, during her stay in Türkiye, she did not develop a life relationship, as well as the fact that the applicant lacks a support network in Turkey. In light of these facts, in view of and the requirement of cumulative fulfilment of the conditions of Article 91 of the [Asylum] Code, the Commission considers that in the present case the conditions laid down by that provision are not met in order for Turkey to be considered a safe country for the applicant.”*

In 2023, Appeals Committees continued to highlight that women and girls are vulnerable to sexual and labour exploitation in Türkiye. In February 2023, the 16<sup>th</sup> Appeals Committee accepted the appeal of a Somali single woman and overturned the first instance negative decision of the RAO that had rejected her asylum application as inadmissible based on the safe third country concept.<sup>506</sup> The Appeals Committee noted that: *“taking into account in particular: a) the applicant’s age (she is in her 37th year of age according to her reported date of birth, (b) that she has not attended school and is therefore perceived to be particularly vulnerable, given that she has never before been outside her country of origin; c) that she is not accompanied by a relative or another adult person capable of providing effective protection and it does not appear that there is a family or friendship support network for her (the applicant) in Turkey, the Commission suspects that due to the applicant’s above-mentioned situation, there is a risk of serious harm to her in the event of her readmission to Turkey, where women are vulnerable to sexual and racial violence and the labour market also presents high risks of exploitation for single women, particularly if they are illiterate. In the light of the foregoing and in accordance with what has been set out in detail above, the Commission considers that in the applicant’s case the legally required connection is not established, on the basis of which it would be reasonable for her to travel to Turkey and, consequently, the criterion in point (f) of paragraph (f) does not apply in her case.”*

In February 2023, the 21<sup>st</sup> Appeals Committee, accepted the appeal of an Afghan family, whose application had been found inadmissible at first instance based on the safe third country concept.<sup>507</sup> The

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<sup>504</sup> Indicatively: 21st Appeals Committee, Decision 115795/2022, issued 28 February 2022, 10th Appeals Committee, Decision 224433/2022, issued 20 April 2022, 3rd Appeals Committee, Decision 345521/2022, issued 16 June 2022.

<sup>505</sup> Case represented before the Appeals Committee by a lawyer from the Registry, 10η Επιτροπή 83008/2023.

<sup>506</sup> Case represented by GCR before the Appeals Committee. Description of the decision available in Greek in GCR, HIAS, RSA et al, *Greek Asylum Case Law Report*, Issue 1/2023, p. 9, 16η Επιτροπή 85916/2023, available at: <https://tinyurl.com/2meam8kv>.

<sup>507</sup> Case represented by GCR before the Appeals Committee. Description of the decision available in Greek in GCR, HIAS, RSA et al, *Greek Asylum Case Law Report*, Issue 1/2023, p. 9, 21η Επιτροπή 87590/2023, available at: <https://tinyurl.com/2meam8kv>.

Appeals Committee took into consideration that the applicants: “(i) despite having stayed in Turkey for a period of approximately five (5) months, they were only able to work for a few days and without receiving any payment; (ii) they do not have a family or friends support network in Turkey, which could assist them on their return; and (i) although they have attempted to apply for international protection, the Turkish authorities have refused to receive the application, the Commission considers that, in the applicants' case, the legally required link is not established on the basis of which it would be reasonable for them to go to Turkey [...] In view of required cumulative fulfilment of each of the criteria laid down in the law, the Turkey cannot be regarded as a safe third country for the applicants.”

### 3.4. Legal assistance

**Indicators: Admissibility Procedure: Legal Assistance**

Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?  Yes  With difficulty  No

❖ Does free legal assistance cover:  Representation in interview  Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?  Yes  With difficulty  No

❖ Does free legal assistance cover  Representation in courts  Legal advice

Legal Assistance in the admissibility procedure does not differ from the one granted for the regular procedure (see section on [Regular Procedure: Legal Assistance](#)). Thus, asylum seekers do not have access to free legal assistance during the admissibility procedures at first instance but only at second instance.<sup>508</sup> The lack of legal assistance has proven particularly problematic, especially for cases falling under the JMD designating Türkiye as a safe third country. While legal aid services are provided at second instance, meaning the submission of an appeal against the first instance negative decision on admissibility, the ten-day deadline for the submission of the appeal following the notice of an inadmissibility decision is not, in any case, adequate for asylum applicants, nor for the registry lawyers to be properly prepared for the appeal procedure and prepare an effective representation before the Appeals Authority.

### 3.5. Suspension of returns for beneficiaries of protection in another Member State

According to Dublin III Regulation, a Member State may send a take back request (Articles 18(1b-d) and 20(5)) asking another Member State to take responsibility for an applicant who applied for international protection within the reporting country but had already applied in the first Member State or because the other Member State previously accepted responsibility through a take charge request.

Data on outgoing “take back” requests and relevant positive decisions per Member State have not been provided by the MoMA, even though GCR has requested it. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry’s website “and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”. Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

<sup>508</sup> Art. 76 of the Asylum Code.

## 4. Border procedure (border and transit zones)

### 4.1. General (scope, time limits)

#### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  Yes  No
2. Where is the border procedure mostly carried out?  Air border  Land border  Sea border
3. Can an application made at the border be examined in substance during a border procedure?  Yes  No
4. Is there a maximum time limit for a first instance decision laid down in the law?  Yes  No  
❖ If yes, what is the maximum time limit? 28 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure?  Yes  No

There are two different types of border procedures in Greece. The first will be cited here as the “normal border procedure” and the second as the “fast-track border procedure”. In the second case, many of the rights of asylum seekers are severely restricted, as it will be explained in the section on [Fast-Track Border Procedure](#). Article 95 Asylum Code establishes the border procedure, limiting its applicability to admissibility or to the substance of claims processed under an accelerated procedure.<sup>509</sup>

In the “normal border procedure”, where applications for international protection are submitted in transit zones of ports or airports, asylum seekers enjoy the same rights and guarantees as those whose applications are lodged in the mainland.<sup>510</sup> However, deadlines are shorter: for example, when an appeal is lodged, its examination can be carried out, at the earliest, five days after its submission.<sup>511</sup>

According to Article 70 Asylum Code, the Asylum Service, in cooperation with the authorities operating in detention facilities and at Greek border entry points and/or civil society organisations, shall ensure the provision of information on the possibility to submit an application for international protection. Interpretation services shall also be provided to the extent that this is necessary for the facilitation of access to the asylum procedure. Organisations and persons providing advice and counselling, shall have effective access, unless there are reasons related to national security, or public order or reasons that are determined by the administrative management of the border crossing point concerned and impose the limitation of such access. Such limitations must not result in access being rendered impossible.

Where no decision on an asylum application lodged a border entry point is taken within 28 days, the applicant is allowed entry into the Greek territory for their application to be examined according to the provisions concerning the [Regular Procedure](#).<sup>512</sup> During this 28-day period, applicants remain *de facto* in detention (see [Grounds for Detention](#)).

In practice, the above-mentioned procedure is only applied in airport transit zones. In particular to people arriving at **Athens International Airport** – usually through a transit flight – who do not have a valid entry authorization and apply for asylum at the airport.

With a Police Circular of 18 June 2016 communicated to all police authorities, instructions were provided *inter alia* as to the procedure to be followed when a third-country national remaining in a detention centre or a RIC wishes to apply for international protection, which includes persons subject to the border procedure.<sup>513</sup>

<sup>509</sup> Article 95(1) Asylum Code

<sup>510</sup> Articles 51, 74, 76, και 80 Asylum Code

<sup>511</sup> Article 100 (2) c Asylum Code

<sup>512</sup> Art. 95(2) Asylum Code.

<sup>513</sup> Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: <https://tinyurl.com/ye85mfbc>.

The number of asylum applications subject to the border procedure at the airport in 2023 has not been provided by the MoMA, even though GCR has requested it.

## 4.2. Personal interview

### Indicators: Border Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?  
 Yes  No  
❖ If so, are questions limited to nationality, identity, travel route?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The personal interview at the border is conducted according to the same rules as those described under the regular procedure.

Where the application has been lodged at the **Athens International Airport** transit zone, the asylum seekers are transferred in most cases to the AAU of **Amygdaleza** for the full registration of their asylum application and for the interview. Consequently, GCR is not aware of any interview through videoconferencing in the transit zones to date.

## 4.3. Appeal

### Indicators: Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?  
 Yes  No  
❖ If yes, is it  Judicial  Administrative  
❖ If yes, is it automatically suspensive  Yes  Some grounds  No

The Asylum Code foresees that the deadline for submitting an appeal against a first instance negative decision issued in the border procedure is 10 days.<sup>514</sup> The automatic suspensive effect of appeals depends on the type of negative decision challenged by the applicant (see [Admissibility Procedure: Appeal](#) and [Accelerated Procedure: Appeal](#)). Appeals against decisions rejecting applications under the border procedure may not carry an automatic suspensive effect if the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare the application for leave to remain before the Appeals Committee.<sup>515</sup>

In practice, in such cases, the appellant has to submit a separate request before the Appeals Committee for leave to remain on Greek territory pending the outcome of the appeal. This request is being examined by the Appeals Committee on the same day as the appeal, so there has been no issue of removal from the country until the notice of the second instance decision, as, in practice, only the submission of the request for leave to remain has a suspensive effect.

In cases where the appeal is rejected, the applicant has the right to file an application for annulment before the Administrative Court (see [Regular Procedure: Appeal](#)).

<sup>514</sup> Article 95(3)(c) Asylum Code.

<sup>515</sup> Article 110(3) Asylum Code.

#### 4.4. Legal assistance

##### Indicators: Border Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
 Yes  With difficulty  No  
❖ Does free legal assistance cover:  
 Representation in interview  
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?  
 Yes  With difficulty  No  
❖ Does free legal assistance cover:  
 Representation in courts  
 Legal advice

The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions and practical limitations regarding legal aid are also applicable here (see section on Regular Procedure: Legal Assistance).

#### 5. Fast-track border procedure (Eastern Aegean islands)

##### 5.1. General (scope, time limits)

##### Indicators: Fast-track border procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  
 Yes  No
2. Can an application made at the border be examined in substance during a border procedure?  
 Yes  No
3. Is there a maximum time limit for a first instance decision laid down in the law?  
 Yes  No  
❖ If yes, what is the maximum time limit?  
7 days

Although the fast-track border procedure was initially introduced as an exceptional and temporary procedure, it has become the rule for a significant number of applications lodged in Greece. In December 2023, the total number of applications (first time and subsequent) lodged before the RAOs of Lesbos, Samos, Chios, Leros and Kos was 4,258, 63% of the total number of applications lodged in Greece in the same month.<sup>516</sup> Data on the total number of applications lodged before all islands' RAOs in 2023 have not been provided by the MoMA. Only monthly records of asylum applications lodged before each island's RAO are available at the MoMA's website.

The impact of the EU-Türkiye Statement has been, *inter alia*, a *de facto* dichotomy of the asylum procedures applied in Greece.<sup>517</sup> This is because the fast-track procedure is only applied in cases of applicants subject to the EU-Türkiye Statement, *i.e.*, applicants who arrived on the Greek Eastern Aegean islands after 20 March 2016 and have lodged applications before the RAO of **Lesvos, Chios, Samos, Leros and Kos**.

Moreover, in 2023, asylum seekers that arrived in **Rhodes** were transferred *inter alia* to Leros and Kos CCACs and lodged applications before Leros and Kos RAOs, respectively, channeled therefore into fast-track border procedures despite having arrived on another island.<sup>518</sup> It should be noted that no reception conditions had been provided in Rhodes during the waiting period for their transfer.

<sup>516</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 8b.

<sup>517</sup> GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium & Greece (Appl. No 30696/09) and related case*, 9 May 2019, available at: <https://bit.ly/2XYhHpj>.

<sup>518</sup> Ertnews, *Συνεχίζεται η μεταφορά προσφύγων από Ρόδο προς τις δομές Κω και Λέρου – Πάνω από 4.000 οι φιλοξενοούμενοι*, 22 September 2023, available in Greek at: <https://tinyurl.com/3ykvddaa>.

However, applications lodged before the Asylum Unit of **Fylakio** by newly arrived persons who entered through the Greek-Turkish land border and remain in the RIC in Fylakio in Evros are not examined under the fast-track border procedure. In 2023, 7,079 applications were lodged before the Asylum Unit of Fylakio.<sup>519</sup>

Asylum procedures are currently regulated by the Asylum Code. More particularly, Article 95(3) Asylum Code foresees that the fast-track procedure can be applied as long as third country nationals who have applied for international protection at the border or at airport / port transit zones or while remaining in Reception and Identification Centres (RICs), are regularly accommodated in places close to the borders or transit zones. Initially, a Joint Ministerial Decision (JMD) issued on 30 December 2020, provided for the application of the fast-track border procedure under Article 90 (3) of Law 4636/2019 for those who arrived at the Greek Eastern Aegean Islands.<sup>520</sup>

### **Main features of the fast-track border procedure under the Asylum Code**

The fast-track border procedure under Article 95(3) Asylum Code repeats the previous legal framework and provides *inter alia* that:

- (a) The registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces, if police staff are not sufficient.
- (b) The asylum seeker interview may also be conducted by Greek language personnel deployed by EUAA. However, Article 95(3) also introduced the possibility, “in particularly urgent circumstances”, that the interview can be conducted by trained personnel of the Hellenic Police or the Armed Forces –as long as they have received specific training, as opposed to the strict limitation to registration activities under previous L. 4375/2016.
- (c) The asylum procedure shall be concluded in a short time period.

This may– and often does– result in compromising the procedural guarantees provided by the international, European and national legal framework, including the right to be assisted by a lawyer. Extremely brief time limits significantly affect the procedural guarantees to which asylum seekers are entitled in a fast-track procedure and, therefore, there should be an assessment of their conformity with Article 43 of the recast Asylum Procedures Directive, which provides that restrictions on procedural rights in a border procedure cannot be imposed for reasons related to large numbers of arrivals.

More precisely, according to Article 95(3)(c) Asylum Code:

- ❖ the Asylum Service shall issue a first instance decision within seven days;
- ❖ the deadline for the submission of an appeal against a negative decision is ten days;
- ❖ the deadline for the submission of an appeal does not always have an automatic suspensive effect, as provided by Article 110 (3) Asylum Code, and a separate application for suspension of removal needs to be submitted before the Appeals Authority, within the deadline for the submission of the appeal;
- ❖ the examination of an appeal shall be carried out within four days. The appellant is notified within one day to appear for a hearing before the Appeals’ Committees or to submit supplementary evidence; and
- ❖ the second instance decision shall be issued within seven days.

It should be noted that these very short time limits seem to be exclusively at the expense of applicants for international protection in practice. In fact, whereas timelines are, as a general principle, not compulsory

<sup>519</sup> According to information provided by the GCR lawyer operating in Kos.

<sup>520</sup> Joint Ministerial Decision for the application of the provisions of par. 3 and 5 of article 90 of IPA, No 15996/30.12.2020, Gov. Gazette 5948/B/31.12.2020.



for the authorities and case processing at the borders takes several months on average, applicants still have to comply with the very short time limits provided by Article 95(3) Asylum Code.<sup>521</sup> In 2023, official data regarding the average time between the full registration of the asylum application and the issuance of a first instance decision under the fast-track border procedure was not available.

The Greek Asylum Service is under constant pressure to accelerate the procedures on the islands, which was also one of the reasons invoked to amend the national legislation in late 2019. The FRA's concerns related to the very limited processing time imposed in the scope of the previous legal framework and the impact that this could have on the quality of the procedure remain. More specifically, FRA emphatically underlined that "even with the important assistance the European Asylum Support Office provides, it is difficult to imagine how the processing time of implementing the temporary border procedure under Article 60(4) L.4375/2016 or the regular asylum procedure on the islands can be further accelerated, without undermining the quality of decisions. Putting further pressure on the Greek Asylum Service may undermine the quality of first instance asylum decisions, which in turn would prolong the overall length of procedure, as more work would be shifted to the appeals stage."<sup>522</sup>

In 2023, the fast-track border procedure has continued being variably implemented depending on the profile and nationality of the asylum seekers concerned (see also [Differential Treatment of Specific Nationalities in the Procedure](#)). Within the framework of that procedure:

- ❖ In 2023, data on in-merit and inadmissibility decisions issued by the Asylum Service in the fast-track border procedure have not been provided by the MoMA, even though GCR has requested it. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]"<sup>523</sup> Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.
- ❖ In October 2021, notes by the Readmission Unit of the Hellenic Police Headquarters confirmed that Türkiye has indefinitely suspended returns from Greece since 16 March 2020. Due to this suspension, the Greek authorities stopped sending readmission requests to Türkiye based on the Common EU- Türkiye Statement for rejected asylum seekers.<sup>524</sup>
- ❖ According to MoMA's Report 2023: "*Returns under the EU - Turkey Joint Declaration have not been made since March 2020 due to Covid-19. It should be noted that despite the lifting of the Covid-19 measures the requests of missions-returns of the Greek authorities have not been answered*"<sup>525</sup>
- ❖ Despite this suspension, the Greek authorities refused to examine applications for international protection on their merits, as required by Article 91(5) of Asylum Code.

Generally, in 2021, a large number of asylum seekers with specific profiles, meaning high recognition rate, (*i.e.*, asylum seekers from Palestine, Eritrea and Yemen) had been granted refugee status on the basis of their administrative file, without undergoing an asylum interview, although this was not a consistent practice of the Asylum Service throughout the year or even between different Regional Asylum Offices applying the border procedure. This practice changed during 2022 and asylum seekers with specific profiles had to undergo asylum interviews. This has been the case for Eritrean nationals in

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<sup>521</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 5 March 2019, available at: <https://bit.ly/2HeRg79>, p. 26.

<sup>522</sup> *Ibid.*, p. 26: 'in **Kos**, the average time from the lodging of the application until the first interview with EASO was 41 days while from the date of the interview until the issuance of the recommendation by EASO was 45 days'.

<sup>523</sup> MoMA, Analysis and Studies Office, Reply to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, received on 14 February 2024 (protocol number: 55259).

<sup>524</sup> Fenix, *Fenix calls the Greek authorities to examine the merits of asylum applications rejected on admissibility*, 6 December 2021, available at: <https://bit.ly/3wUxsyN>.

<sup>525</sup> MoMA, *Report A, December 2023, Reception, Identification & Asylum Procedures*, available at: <https://tinyurl.com/5fmbpmz>.

**Lesvos**,<sup>526</sup> and for all Palestinians in **Lesvos, Chios and Kos**. It should be noted that, in Kos, all Palestinians coming from Syria were being examined on admissibility and safe third country grounds.<sup>527</sup>

During 2023, and approximately since September 2023, asylum seekers from countries with over 95% recognition rate (*i.e.*, applicants from Palestine, Yemen, Sudan) had been granted refugee status on the basis of their administrative file, without undergoing an asylum interview, in application of article 82 para. 7 of the Asylum Code. The same practice was applied during 2023, in **Fylakio Evros**, for asylum applicants of Yazidi origin; they have been granted refugee status on the basis of their administrative file.<sup>528</sup>

However, in **Lesvos**, a malpractice has been observed with regard to Eritrean nationals. Specifically, individuals who have stated being Eritreans but who had resided most of their life in Ethiopia have been falsely registered as Ethiopians. It has been observed by legal actors that FRONTEX assessed them as Ethiopian nationals and not as Eritreans contrary to their statements. Legal aid actors observed the following:<sup>529</sup>

- ◆ The applicants underwent a nationality assessment during their interview at RAO Lesvos, during which they were asked questions regarding Eritrea which they could be reasonably unable to answer (since applicants claimed that they left their country of origin when they were very young, lost their parents, etc).
- ◆ In some cases, two interviews were conducted: RAO called the applicant for a 2nd interview during which they informed him/her that RAO, based on the first interview including a nationality assessment, rejected his/her claim as Eritrean national, concluded that he/she is Ethiopian and then asked the applicant whether he/she wanted to submit an application to change their nationality.
- ◆ It appears that the Estimated Nationality during the identification procedure functioned as an irrefutable presumption and could only be disputed if original documents had been provided. Some negative decisions claimed that: *“The applicant did not provide the [Asylum] Office with an original identification document or other document in support of her [his] claims in the context of the examination of her [his] application for international protection. Her [his] administrative file contains a screening report No [XXXXXX] addressed to the Commander of the Lesvos RIC, where it is marked as Estimated Nationality after Screening, ETHIOPIA, as resulting from the identification procedure.”*
- ◆ In some cases, while the Asylum Service accepted that the applicant was born in Eritrea, it rejected the nationality claim (as not internally credible due to the lack of information provided/inability to answer the questions regarding Eritrea) and held thereafter the asylum application unfounded.
- ◆ Another decision rejected an asylum application as manifestly unfounded, according to article 93 par. 2 d, on the basis that the applicant provided false information regarding his nationality and tried to mislead the authorities.
- ◆ In some cases, where lawyers asked Lesvos RIS for copies of their clients’ files, there was no report to be provided regarding the nationality assessment.<sup>530</sup>

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<sup>526</sup> Information obtained during the Lesvos LAsWG meeting, 3 May 2022.

<sup>527</sup> Information obtained during GCR’s mission to Chios and visit to Chios RAO, 24-26 May 2022, from the GCR lawyer operating in Kos and legal actors operating in the field in Lesvos.

<sup>528</sup> Information provided by Fylakio RAO and GCR lawyer based in Alexandroupoli.

<sup>529</sup> Information obtained during Lesvos LAsWG meetings.

<sup>530</sup> Information acquired during Lesvos LAsWG meeting of 28- November 2023.

- ◆ A report has been submitted asking for the intervention of the Greek Ombudsman regarding a case pending at second instance.<sup>531</sup>
- ◆ No cases of the above-described malpractice were observed in the mainland.<sup>532</sup>

In accordance with Article 92(5) Asylum Code, applications of asylum seekers nationals of countries listed as 'safe countries of origin' in the national list have been examined on the merits only to the extent of their claims against the application of the safe country of origin assumption.<sup>533</sup>

It has been highlighted that “the practice of applying different asylum procedures according to the nationalities of the applicants is arbitrary, as it is neither provided by EU nor by domestic law. In addition, it violates the principle of non-discrimination as set out in Article 3 of the Geneva Convention of 28 July 1951 relating to the status of refugees (Geneva Convention). Instead, it is explicitly based on EUAA's undisclosed internal guidelines, which frame the hotspot asylum procedures in order to implement the EU-Türkiye statement.”<sup>534</sup>

### Exempted categories from the fast-track border procedure under the Asylum Code

As opposed to previous legislation, the Asylum Code repeals the exception of persons belonging to vulnerable groups and applicants falling under the Dublin Regulation from the fast-track border procedure (see [Identification](#) and [Special Procedural Guarantees](#)).

Data for the number of cases exempted from the border procedure on grounds of vulnerability and need for special procedurals guaranteed under the Asylum Code in 2023 are not available.<sup>535</sup>

In 2023, **Lesvos** RAO has automatically applied non-border procedures for applicants to whom first instance decisions had not been notified within 28 days from registration, without however issuing any decision for a referral to the normal procedure (as it is not foreseen in the law, according to RAO).<sup>536</sup> In these cases, the deadline for the appeal is automatically extended as follows: for admissibility, the 10 days turn automatically to 20 days, for eligibility, from 10 to 30 days, and for eligibility for safe country of origin cases from 10 to 20 days. This practice is based on article 95 paragraph 2 of law 4939/2022.<sup>537</sup> The same practice has been observed by legal aid actors in **Kos** RAO; the practice was first noticed at the beginning of 2023 and continued throughout the year.

Furthermore, the total number of unaccompanied minors examined under border procedures in 2023 is not available. In particular, as far as unaccompanied minors are concerned, Article 80 (7) Asylum Code provides that applications filed by minors under the age of 15, as well as minors who are victims of human trafficking, torture, rape or other serious forms of psychological, physical or sexual violence shall be examined under the regular procedure. However, Article 95 (4) Asylum Code provides that unaccompanied minors are examined under the fast-track border procedure if:

- ❖ the minor comes from a country designated as a safe country of origin in accordance with the national list (according to article 92 (5) Asylum Code);

<sup>531</sup> Information acquired during Lesvos LAsWG meeting, 28 November 2023.

<sup>532</sup> Information acquired during Athens LAsWG meetings, 2023.

<sup>533</sup> See for example Decision 18695/2023 issued by 21<sup>st</sup> Appeals Committee concerning the case of an asylum applicant from Ghana; a summary of the decision is available in Greek in GCR, HIAS, RSA et al, *Issue 2/2023 of the Greek Asylum Case Law Report*, available at: <https://tinyurl.com/yn6yb77u>.

<sup>534</sup> Greens/EFA, *The EU-Türkiye Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, p. 17.

<sup>535</sup> Following the latest request for data sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website “and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”[1]. Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

<sup>536</sup> Information acquired by Lesvos RAO, February 2024.

<sup>537</sup> According to article 95 paragraph 2 of Asylum Code: “If no decision is taken within twenty-eight (28) days from the date of filing the application, the applicant shall be allowed to enter and remain within the country in order to have his/her application examined, in accordance with the other provisions of this Code.”

- ❖ he/she submits a subsequent application;
- ❖ he/she is considered a threat to the public order/national security;
- ❖ there are reasonable grounds to believe that a country can be considered as a safe third country for the minor, and if it is in line with the best interest of the minor;
- ❖ the unaccompanied minor has misled the authorities by submitting false documents or he/she has destroyed or he/she has lost in bad faith his or her identification documents or travel document, under the conditions that they or their guardian be given the opportunity to provide sufficient justification for it.

## 5.2. Personal interview

### Indicators: Fast-track border procedure: Personal interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?  Yes  No
  - ❖ If so, are questions limited to nationality, identity, travel route?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

According to Article 69 (1) Asylum Code, asylum applicants are already required at the stage of registration of their asylum application before RAOs, to give exhaustive reasons for fleeing their country of origin. If they fail to mention all reasons during the registration, they have no right to develop claims which are only for the first time mentioned during their asylum interview. However, in practice, the registration of the asylum application in the islands is too succinct to provide them with the opportunity to do so, as it only focuses on very basic information.

At the end of 2021, the Reception Service (RIS) at the **Kos** and **Samos** RICs (now CCACs) started carrying out the full registration of asylum applications, as opposed to the Asylum Service until then. In 2022, this practice was adopted by the RISs/CCACs in all the islands and it continued in 2023. Ever since the registration of asylum applications was removed from the Asylum Service and was undertaken by the RIS, the registration form includes very limited information. Nevertheless, in practice, asylum seekers have the opportunity during their interviews to present their full claims, including information that was not mentioned in their registration form.

According to Article 82(4) Asylum Code prior to the first interview of an asylum applicant that has been considered vulnerable, if his/her interview is scheduled within 15 days from the submission of his/her application, the applicant shall be granted reasonable time to prepare himself/herself and consult a legal or other adviser to assist him/her during the interview. The reasonable time for preparation is determined by the competent authority, meaning the Asylum Service, and shall not exceed three (3) days. If the interview is scheduled at a time later than fifteen (15) days from the submission of the application for international protection, no preparation time is granted. If the interview is postponed, no further preparation time shall be granted. This means that in the latter two cases, the applicant will not be given any additional time to prepare him/herself for the interview from the time he/she is informed of his/her interview appointment.

Decisions at first instance shall be issued within seven days, according to Article 95(3)(c) of the Asylum Code.

However, in practice, based on the observations of legal and psychosocial actors operating in the field, including GCR, the newcomers undergo the interview procedure without prior adequate evaluation of their potential vulnerabilities. Most of the time, the RIS' Medical and Psychosocial Unit (not always staffed by a doctor) proceeds with a typical medical check and record only manifest vulnerabilities. In any case, there is no information exchange mechanism between the RIS' Vulnerability Focal Point (VFP) and RAO, and no relevant joint process to ensure that interviews are scheduled after the vulnerability assessment is completed. Even when RAO caseworkers refer the case to RIC's Medical and Psychosocial Unit for

further vulnerability assessment, they do so after the interview has been completed. No postponements have been granted for interviews despite the applicants' and their legal representatives' requests that vulnerability assessments be completed prior to the interview. Accordingly, no reasonable time for their preparation can be granted on the basis of their vulnerabilities, since they have not been had the opportunity to be identified.

Article 74(3) Asylum Code expressly foresees that communication with asylum applicants (including interviews) may be conducted in the official language of their country of origin, or in another language that it is reasonably considered that the asylum applicant understands, if it has been proven manifestly impossible for the authorities to provide interpretation in that language. In practice, a refusal of the applicants to undergo procedures in the official language of their countries of origin, rather than their native languages, may be considered a violation of their obligation to cooperate with the authorities and lead to the rejection of their application.

According to Article 95(3)(b) Asylum Code, the personal interview may be conducted by Asylum Service staff or EUAA personnel or, "in particularly urgent circumstances", by trained personnel of the Hellenic Police or the Armed Forces.<sup>538</sup> With regard to the possibility of personnel of Hellenic Police or Armed Forces conducting personal interviews, Amnesty International has underlined that the application of such provision "would be a serious backward step that will compromise the impartiality of the asylum procedure".<sup>539</sup> So far, the Hellenic Police or Armed Forces have not carried out personal asylum interviews, however, they did undertake the full registration of asylum applications in certain circumstances.

EUAA (former EASO)'s competence to conduct interviews was introduced by an amendment to the law in June 2016, following an initial implementation period of the EU-Türkiye Statement during which the exact role of EASO officials as well as the legal remit of their involvement in the asylum procedure was uncertain. The EASO Special Operating Plans to Greece foresaw a role for EASO in conducting interviews (face-to-face and remote) in different asylum procedures, drafting opinions and recommending decisions to the Asylum Service throughout 2017, 2018, 2019, 2020 and 2021.<sup>540</sup> A similar role is foreseen in the Operational & Technical Assistance Plan to Greece 2022-2024, including in the Regular procedure.<sup>541</sup>

In practice, in cases where the interview is conducted by an EUAA Greek speaker caseworker, the latter provide an opinion / recommendation (*πρόταση / εισήγηση*) on the case to the Asylum Service, which remains the competent authority for the issuance of the decision. The transcript of the interview and the opinion / recommendation are written in Greek. The issuance of an opinion / recommendation by EASO/EUAA personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks a legal basis.<sup>542</sup> Finally, a caseworker of the Asylum Service, without having had any direct contact with the applicant, e.g., to ask further questions, issues the decision based on the interview transcript and the opinion / recommendation provided by EASO/EUAA, without being bound by it.<sup>543</sup>

In 2023, the number of interviews carried out by EUAA caseworkers in Greece continued to decrease, compared to previous years, to interviews in the asylum cases of 7,272 applicants. Of these, 77% related to the top 10 citizenships of applicants interviewed by the EUAA, in particular Somalis (1,620), Afghans (687), Pakistanis (592) and Eritreans (538).<sup>544</sup>

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<sup>538</sup> Article 95(3)(b) Asylum Code.

<sup>539</sup> Amnesty International, *Submission on the proposed changes to the Greek Law on international protection*, 24 October 2019, available at: <https://bit.ly/3oxyL5k>.

<sup>540</sup> See, e.g., EASO, *2020 Operational & Technical Assistance Plan to Greece*, 20 December 2019, available at: <https://bit.ly/3Qhm0X3> p. 14.

<sup>541</sup> EASO, *Operating Plan to Greece 2022-2024*, 9 December 2021, available at: <https://bit.ly/3uMYh9q>, pp. 20-21.

<sup>542</sup> Articles 60(4)(b) L 4375/2016 and 90(3)(b) only refer to the conduct of interviews by EASO staff.

<sup>543</sup> AIRE Centre, et al., *Third party intervention in J.B. v. Greece*, 4 October 2017, available at: <http://bit.ly/2qSRxoU>, pp. 10-11.

<sup>544</sup> Information provided by the EUAA, 26 February 2024.

The number of concluding remarks issued by EUAA decreased to 776 in 2023, a significant drop compared to 2022 (5,071). This is due to the fact that, following the June 2021 Joint Ministerial Decision designating Türkiye as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility.<sup>545</sup>

Particularly, the RAOs had no consistent practice regarding any further examination of allegations of pushbacks during the asylum interview. The caseworkers had discretion as to whether to devote time during the interview and ask further questions regarding the reported “pushback” incident by the asylum applicant.

Moreover, it remains unclear how until today the EUAA case workers handle the information on criminal acts and violation of EU and international law at the EU external borders by other actors that are brought to its attention.

The establishment of the EUAA Complaints Mechanism as regards complaints against EUAA personnel is a work in progress under the responsibility of the newly appointed EUAA Fundamental Rights Officer (FRO).<sup>546</sup> However, complaints can only be submitted by persons directly affected (or their representatives) by the actions of asylum support team members, when they consider that their fundamental rights have been violated due to an expert’s actions.<sup>547</sup> This is stipulated in the EUAA Regulation in such wording and the scope for the complaints mechanism can therefore not be broadened to include other instances of violations. For any other violations of fundamental rights not committed by members in Asylum Support Teams (ASTs), the EUAA is working in parallel on developing an escalation mechanism which would allow for an appropriate escalation process for situations when Agency staff becomes aware of any serious violations of fundamental rights or international protection obligations committed by a host Member State.

In an unknown number of cases, decisions have been issued by different RAOs and/or AAUs from those where the interviews have been conducted, operating supportively to the latter.

In 2023, in **Lesvos**, the applicants continued to receive an invitation for their interview, according to which they needed to present themselves before the RAO in Pagani area at the day of their interview at 7:00 am, without any information regarding the actual time that their interview was scheduled.<sup>548</sup> In practice, this meant that there were many applicants that appeared before the RAO’s gate at 6:30 only to start their interviews at 12:00 or even at a later time, while waiting all these hours in an open-air space, often exposed to bad weather conditions. Additionally, there was no waiting area at the premises of the RAO for the lawyers who represent asylum seekers at registrations and interviews. Moreover, employees of the RAO very often refused to receive the lawyers in the offices, within the premises of the RAO.<sup>549</sup> Instead, the lawyers were received in the courtyard, in circumstances that violated the necessary conditions of confidentiality and, in general, the dignified exercise of the legal profession. In many cases, both attorneys and asylum seekers waited for long, exhausting hours, resulting in fatigue, jeopardizing the quality of the interviews. The issue of the lack of waiting area persisted in 2024.<sup>550</sup>

### Quality of interviews

The quality of interviews conducted by EUAA and RAO caseworkers has been highly criticised. *Inter alia*, quality gaps such as lack of knowledge about countries of origin, lack of cultural sensitivity, questions based on a predefined list, closed and leading questions, repetitive questions, frequent interruptions and

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<sup>545</sup> Information provided by the EUAA, 26 February 2024.

<sup>546</sup> Information acquired during the 2<sup>nd</sup> EUAA Consultative Forum Plenary Meeting, 30 November 2023.

<sup>547</sup> Ibid.

<sup>548</sup> For this issue, Lesvos LAsWG has addressed a letter to Lesvos RAO Administration, 5 December 2023.

<sup>549</sup> Ibid.

<sup>550</sup> Information acquired during the Lesvos LAsWG meeting, 23 January 2024.

unnecessarily exhaustive interviews and conduct preventing lawyers from asking questions at the end of the interview continue to be reported.<sup>551</sup>

In 2023, legal aid actors continued to observe issues concerning the quality of the interviews as well as the procedural fairness of how they are conducted, mainly those conducted by the Greek Asylum Service. Specifically, concerns were raised about the use of unsuitable communication methods and questions related to past experience of harm and/or persecution which included closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant's own words, failure to consider factors that are likely to distort the applicant's ability to express him or herself properly (such as mental health issues or prior trauma and/or illiteracy), lack of clarification with regard to vague or ambiguous concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him or herself effectively, and more generally, violations of the right to be heard. Moreover, concerns have been raised regarding the use of unsuitable methods and questions, including unfriendly interview environment for a) the applicants' age, in cases of alleged minors, and more generally, violations of the right to a child-friendly environment and procedure, b) gender-based violence (GBV) survivors<sup>552</sup>, and c) LGBTQI+ persons.<sup>553</sup> In general, no individualised assessment of the specific profile and circumstances of the asylum applicant or gender-sensitive assessment was taking place.

Namely, results of a survey on treatment of LGBTQI+ asylum seekers in Greece within the context of the asylum procedure, based on interviews conducted in 2023, revealed use of prohibited and discriminatory questioning, questions related to sexual practice and questions based on stereotypical notions during the asylum interview by the caseworkers, and a lack of caseworkers' competence in assessing LGBTQI+ claims and failure to align with the DSSH (Difference, Shame, Stigma, Harm) model provided by the EUAA.<sup>554</sup>

Indicatively, see the reasoning of a negative decision issued by Kos RAO, for an asylum applicant with, *inter alia*, a homosexuality claim:<sup>555</sup> *"For instance, the applicant could not elaborate on the process and the way in which he became aware of his sexual orientation, saying that this happened after an incident of rape when he was [x - minor] years old. [...] The applicant gives almost no information about this [rape] incident. When next asked how he felt about his realization of his sexual orientation, he was content to answer that he accepted it while others did not. One would expect that since it was an internal process, and indeed something that would cause him trouble in his own country, he would be able to give more details about how he experienced it and his feelings and even give more information about how he became aware of it. Finally, when asked whether he knew about LGBTI organizations in his country or about the law on homosexuality in his country, the applicant replied negatively. One would expect him to be aware of such organizations or even the law since he stated that from X to X he became aware of his sexual orientation and externalized his feelings, a reason which played a decisive role in the applicant's decision to leave the country. In a more general assessment, these allegations of the applicant are considered to be incoherent and general and as a result, the Service finds that the internal credibility of the above allegation has not been established."* The above reasoning of the first instance negative decision is indicative of the problematic, judgmental and non-sensitive approach and credibility assessment of the Asylum Service with regard to LGBTQI persons and GBV survivors.

Moreover, in 2023, a significant number of asylum applicants continued to report that, during their interview, they were not granted sufficient time and, as a result, their asylum claims were not examined thoroughly. An additional issue relates to the fact that the caseworkers do not follow a standard procedure on the examination of allegations of pushbacks when such are mentioned during the asylum interview. According to lawyers, in certain cases the caseworkers disregard allegations, claiming that they are not

<sup>551</sup> See AIDA, Country Report Greece, 2021 Update, p. 100, <https://bit.ly/3IAjhVm>.

<sup>552</sup> See Fenix, *A GENDERED GAZE ON MIGRATION: Report on sexual and gender-based violence in the context of the Greek asylum policy on Lesbos*, February 2024, available at: <https://tinyurl.com/mk7kmp7t>.

<sup>553</sup> Heinrich Boll Stiftung, *LGBTQI+ Asylum Seekers in Greece*, 8 March 2024, available at: <https://tinyurl.com/5hfsamd5>.

<sup>554</sup> Heinrich Boll Stiftung, *ibid*.

<sup>555</sup> The asylum applicant received legal aid by GCR.

relevant to the interview, while other caseworkers proceed to further investigate the incidents by asking focused questions.

### 5.3. Appeal

#### Indicators: Fast-track border procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?

❖ If yes, is it

❖ If yes, is it suspensive

Yes  No

Judicial

Administrative

Yes

Some grounds  No

In 2023, a total of 960 appeals were lodged on the islands against first instance decisions by the Asylum Service.<sup>556</sup>

#### Changes in the Appeals Committees

As noted in the [Regular procedure](#), Article 148 Asylum Code<sup>557</sup> provides that the Appeals Committees under the Independent Appeals Authority, comprised of administrative judges, may operate in a single or three-member composition.

#### Rules and time limits for appeal

Similar to the first instance fast-track border procedure, truncated time limits are also foreseen in the appeal stage. In particular, the deadline for appealing a negative decision is 10 days, instead of the 30 days deadline foreseen in the regular procedure.<sup>558</sup> The Appeals Committee examining the appeal must make a decision within seven days,<sup>559</sup> contrary to 30 days in the regular procedure.<sup>560</sup> In practice, this very short deadline is difficult for the Appeals Committees to meet, and raises serious concerns over the quality of the decisions issued.

From 1 December 2019 to 31 December 2023, the average time from appeal lodging to issuance of decision (12,334 second instance decisions in total as regards appeals against islands' RAOs first instance decisions) was 81 days.<sup>561</sup>

Additionally, from 1 December 2019 to 31 December 2023, the average time from appeal examination to issuance of decision by the Appeals Committees (12,972 decisions in total) was 55 days.<sup>562</sup>

As a rule, the procedure before the Appeals Committees must be written, based on the examination of the *dossier*, except from cases, provided by the article 102(3) Asylum Code, where the Appeals Committee decides to call for an oral hearing.<sup>563</sup>

As far as the appeal procedure is concerned, in addition to the concerns related to the admissibility of appeals in general (see [Regular Procedure](#)), it shall be noted that it is practically impossible for the applicants to submit an appeal on their own, *i.e.*, without legal aid. Specifically, Article 98 of the Asylum Code requires, for the appeal to be admissible, *inter alia*, reference and development of specified reasons for the appeal. At the same time, the negative decisions are served to the applicants in Greek, and though a simplified text in a language the applicant is expected to understand is served as an accompanying

<sup>556</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 10a.

<sup>557</sup> Previously Article 116 IPA.

<sup>558</sup> Article 95(3)(c) Asylum Code.

<sup>559</sup> Article 95(3)(c) Asylum Code.

<sup>560</sup> Article 106(1)(a) Asylum Code.

<sup>561</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, p. 11.

<sup>562</sup> *Ibid.*

<sup>563</sup> Article 102(3) Asylum Code.



document, this text only provides generic information on the the rejection/does not explain the precise reasons for which the application has been rejected, therefore making it impossible for them to read and be aware of the exact reasons for which their asylum application has been rejected. It is evident that, without legal, aid applicants cannot adequately articulate the legal and factual grounds on which their appeals are based, particularly taking into consideration the requirement that such appeals be submitted in Greek.

The provisions of the Asylum Code relating to the fictitious service (*πλασματική επίδοση*) of first instance decisions are also applicable to the fast-track border procedure and thus the deadline for lodging an appeal against a first instance negative decision may expire without the applicant having been actually informed about the decision.<sup>564</sup>

Asylum applicants in **Kos, Lesvos, Samos and Chios**, were invited in RAOs to sign a "declaration of e-mail address for communication with the asylum service", in which, among other things, the applicant who gives his/her e-mail address and confirms the following statement: 'I wish this address to be used for my communication with the Asylum Service (information, appointment, service of decisions, etc. documents, etc.)'. The information on the above was provided to the applicants with the assistance of an interpreter.

Paragraph 3 of Article 87 Asylum Code stipulates that *"The service of the decision to the applicant shall be carried out (...) or (c) by e-mail to an address indicated by the applicant to the Reception and Identification Service or the Asylum Service or to an address indicated by his/her attorney or authorized counsel or representative or (...). Paragraph 4 of the same article states that "In case the applicant is a detainee or remains in Regional Reception and Identification Services or resides in Reception or Accommodation Centres, the rejection decision or the extract of the operative part of the decision granting international protection status and the accompanying explanatory document of the third part of paragraph 3 shall be sent by any appropriate means to the Head of the Centre or establishment or facility concerned, who shall ensure that a notice of receipt and the times of delivery and distribution of the documents to applicants are posted immediately for each working day and time, in conspicuous places in the premises, and shall draw up an acknowledgement of receipt and post it. Applicants shall ensure that they arrive at the centre within the hours of delivery and distribution of correspondence in order to be served with the relevant mail. A delivery report shall be drawn up for each delivery to the applicant. Service shall be deemed to have been effected after the expiry of three (3) days from the date on which relevant act of receipt referred to in the first subparagraph was drawn."*

Taking into consideration the above legal provisions, the Greek Ombudsman intervened with regard to the "Service of asylum decisions by e-mail to residents in the **Kos** CCAC",<sup>565</sup> and clarified that article 87 Asylum Code clearly provides that the scope of application introduced by the legislator with paragraph 4 is more specific than that of paragraph 3, providing for the service of decisions on applicants who reside in the structures of the Reception and Identification Service (RIS), such as the CCACs. Namely, the Ombudsman noted that the law does not allow the administration to derogate from the application of the provisions of paragraph 4 of Article 87, through the signing of declarations by residents that they will be served with the decisions by e-mail. Finally, it is crucial for the respect of the right to an effective remedy, in the event of non-application of the above provisions, the time limit for lodging an appeal to begin at least from the time when the applicant has demonstrably become aware of the decision.

In **Lesvos, Kos and Chios**, since approximately the second quarter of 2022, an order for voluntary departure from the country - with a seven-day deadline or a 25-day deadline- was incorporated in the first instance negative decisions issued by the RAO.<sup>566</sup> In practice, a seven-day deadline is given with the "rejected as inadmissible" - first instance negative decisions, while a 25-day deadline is given with the

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<sup>564</sup> Article 87 and 108 Asylum Code.

<sup>565</sup> The Intervention of the Greek Ombudsman (no. 346822/2413/16-01-2024) following a legal NGO's report was shared within the context of the Athens Legal Aid Working Group, 23 January 2024.

<sup>566</sup> Information acquired during the Lesvos LAsWG meeting, 28 June 2022, from the GCR lawyer based in Kos, and during GCR mission to Chios and visits to Chios RAO and Police Station, 24-26 May 2022.

“rejected as unfounded” – first instance negative decisions. This practice continued in 2023.<sup>567</sup> The voluntary departure order is provided by article 22 paragraph 1 L.3907/2011, as it was amended by article 3 L. 4825/2021.<sup>568</sup>

Following the amendment of Article 83(3) Asylum Code, the obligation to present oneself before the Appeal Committees remains waived for the appellants who are either under geographical restriction or reside in a Reception/Accommodation facility. In case the appellant cannot be represented by a lawyer or another authorised person/ consultant, a certification shall be submitted before the Appeal Authority. More specifically, for the appellants who reside in a Reception/Accommodation facility, a residence certification shall be issued in writing by the Director of the Reception/Accommodation facility, upon request by the appellant. This request that should not be filed earlier than 3 days before the date of examination of the appeal. This certification confirms that the appellant resided in the facility on the day that the application for the certificate was filed. Appellants, against whom a geographical restriction is imposed must submit a written certification issued by the Police or a Citizens' Service Centre (*KEIT*) located at the area of the geographical restriction by the day before the examination of their appeal, confirming that they presented themselves before said authorities. The application for such a certificate must not be filed longer than two days before the date of the appeal's examination. In case the appellant does not submit the aforementioned certification, it is presumed that they have implicitly revoked their appeal according to Article 86 of Asylum Code.

Moreover, in case of *force majeure*, such as serious illness, serious physical disability or the case of an insurmountable impediment that made the in-person appearance of the appellant impossible, the obligation for the in-person appearance is suspended throughout the duration of the *force majeure*.<sup>569</sup> In these cases, the appellant needs to submit a relevant application, and invoke in a particular manner the incidents that constitute force majeure or unsurmountable impediment that made their appearance in-person impossible; the allegation needs to be proved with written documents and relevant certifications or certificates from a public service. In case the reasons constituting *force majeure* or insurmountable impediment are proven and under the condition that the appellant appears before the competent authorities, the consequences of the non-appearance are lifted.

However, it has been noted that for a considerable period following the above amendment, the information provided to the appellants by the RAOs regarding the issuance and submission of the residence certificates before the Appeals Authority was not accurate. Indeed, the written information provided within the ‘Document – Proof of Submission of the Appeal’<sup>570</sup> explicitly stated that appellants are obliged to submit a residence certificate before the Appeals Authority up to the day before the examination of their appeal. No mention was made of the obligation to apply for the certificate no earlier than three days before the date of examination of the appeal. As a result, in several cases, appellants had submitted outdated residence certificates before the Appeals Authority, and, subsequently, in some of these cases, appeals were rejected by the Appeals Committee (with no examination either of the admissibility or the merits of the asylum applications) on the grounds of the submission of an out-of-date residence certificate by the Head of the RIC. GCR has introduced cases such as these before the Greek administrative courts. In May 2023, the Administrative Court of Athens annulled the decision of the 2<sup>nd</sup> Appeals Committee that had rejected an applicant's appeal on the grounds of the submission of an out-of-date residence certificate.<sup>571</sup>

Similarly to the concerns raised under the Regular procedure as regards the severity of these new procedural requirements, serious concerns with regard to the effectiveness of the remedy and the risk of

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<sup>567</sup> Information acquired from the GCR lawyers based in Lesbos and Kos, and during GCR mission to Chios, 30-31 January 2024.

<sup>568</sup> "1. The decision to return the third-country national may provide for a period of time for his/her voluntary departure, which shall be between seven (7) and twenty-five (25) days, subject to paragraphs. 2 and 4."

<sup>569</sup> Article 83 paragraph 4 Asylum Code.

<sup>570</sup> The Document – Proof of Submission of the Appeal is given to the applicant by the RAO personnel immediately after his/her appeal is lodged.

<sup>571</sup> Decision No ΑΔ940/31-5-2023 issued by the Administrative Court of Athens.

a violation of the principle of non-refoulement are also applicable to appeals in the context of fast-track border procedures.

### **Suspensive effect**

Appeals before the Appeals Committees no longer have automatic suspensive effect as a general rule. The automatic suspensive effect of appeals depends on the type of decision challenged by the applicant (see [Admissibility Procedure: Appeal](#) and [Accelerated Procedure: Appeal](#)). With regard to applications rejected at first instance within the framework of the fast-track border procedure, the Asylum Code states, that a derogation from automatic suspensive effect of appeals can only be ordered provided that the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare and file a relevant application before the Appeals Committee reasoning why he/she should be granted with the right to remain in the Greek territory.<sup>572</sup>

It should be noted that Article 110(3) Asylum Code has incorrectly transposed Art 46(7) of the recast Asylum Procedures Directive. Instead of cross-referring to Article 110(2) Asylum Code on the categories of appeals stripped of automatic suspensive effect, Article 110(3) Asylum Code provides that “the possibility to derogate from the right to remain” may be applied in border procedures subject to requirements including interpretation, legal assistance and at least one week. Accordingly, the law incorrectly suggests that the derogation from the right to remain on the territory may be imposed in any decision taken in a border procedure, insofar as the above guarantees are complied with in practice, the derogation from the right to remain has been generally applied to the fast-track border procedure on the Eastern Aegean islands, including in “safe third country” cases which should have suspensive appeals according to the law.<sup>573</sup> In any case, as it has been already mentioned, where a separate application for suspension of removal is submitted in parallel with the appeal, the Appeals Committees proceed with the examination of the suspension application on the same day that the appeal is being examined.

### **Judicial review**

The general provisions regarding judicial review, as amended in 2018 and 2019, are also applicable within the framework of the fast-track border procedure and concerns raised with regard to the effectiveness of the remedy are equally valid (see [Regular Procedure: Appeal](#)). Thus, among others, an application for annulment before the Administrative Court does not have automatic suspensive effect, even if combined with an application for suspension. Suspensive effect is only granted by a relevant decision of the Court. This judicial procedure before the Administrative Courts is not accessible to asylum seekers without legal representation.

According to practice, individuals whose appeals are rejected within the framework of the fast-track border procedure might be immediately detained upon notification of their second instance negative decision. In the past, and in particular until March 2020, this would mean that they would be at imminent risk of readmission to Türkiye. However, since readmissions remain frozen for the last three years, the detention of people with a second negative decision serves no purpose whatsoever and is considered a disproportionate measure, according to several Administrative Courts’ decisions that upheld the “objections to detention” and ordered the detention to be lifted (See relatively the [Chapter on Detention](#)).

In general, the Asylum Service registered subsequent asylum applications despite pending applications for annulment before the Administrative Court; both procedures can run in parallel.

Concerns regarding the effective access to judicial review for appellants whose appeal has been rejected within the framework of the fast-track border procedure, *i.e.*, who remain under a geographical restriction on the Aegean Islands or are detained on the Aegean Islands following the notification of the second instance decision, were not solved by the new Asylum Code, as the relevant article 115(2) IPA remains

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<sup>572</sup> Article 110(3) Asylum Code.

<sup>573</sup> According to input provided by RSA.

in force.<sup>574</sup> More specifically, Article 115(2) IPA foresees that the First Instance Administrative Court of Athens is the competent Court for submitting legal remedies against second instance negative decisions of applications submitted on the Aegean islands. Thus, legal remedies of appellants who reside or are detained on the Aegean Islands, should be submitted by a lawyer before the Administrative Court of Athens. Considering the geographical distance and the practical obstacles (e.g., to appoint a lawyer able to submit the legal remedy in Athens), the possibility to submit legal remedies remains virtually inaccessible for most applicants.<sup>575</sup> Furthermore, applicants have to provide a notarized power of attorney in order to appoint a legal representative, which costs approximately 100 euros depending on the notary's fee. However, legal aid actors on the islands mention as a further impediment in the overall procedure, that most of the notaries operating on the islands refuse to provide the necessary services to the asylum seekers. This is a serious obstacle to the submission of legal remedies, especially for rejected applicants under geographical limitation on their island of arrival.

Given the constraints that individuals geographically restricted or detained in the Aegean Islands face vis-à-vis access to legal assistance, the fact that legal aid is not foreseen by law at this stage and that annulment applications can only be submitted by a lawyer, access to judicial review for applicants receiving a second instance negative decision within the framework of the fast-track border procedure is severely hindered.

#### 5.4. Legal assistance

##### Indicators: Fast-track border procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
  - Yes
  - With difficulty
  - No
  - ❖ Does free legal assistance cover:
    - Representation in interview
    - Legal advice
  
2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?
  - Yes
  - With difficulty
  - No
  - ❖ Does free legal assistance cover
    - Representation in courts
    - Legal advice

The Asylum Code does not contain special provisions regarding free legal assistance in the fast-track border procedure. The general provisions and practical hurdles regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)).

State-funded legal aid is not provided for the fast-track border procedure at first instance. Therefore, legal assistance at first instance is made available only by NGOs based on capacity and areas of operation, while the scope of these services remains severely limited, bearing in mind the number of applicants subject to the fast-track border procedure.

In September 2023, the Athens Bar Association issued an opinion, clarifying that lawyers providing legal advice and assistance to persons arriving in Greece and wishing to apply for international protection – as well as interpreters used to enable communication – can in no way be construed as facilitating irregular entry or stay, in line with CJEU case law.<sup>576</sup> The opinion also pointed out that communication with such parties is covered by client-attorney privilege under *lex specialis* provisions of the Lawyers' Code of Conduct.<sup>577</sup>

From 16 February 2021 to date, and according to the final lists of the Ministry of Migration and Asylum concerning the Registry of the lawyers providing legal assistance to asylum seekers at the second

<sup>574</sup> Article 148(a) Asylum Code.

<sup>575</sup> See *mutandis mutandis* ECHR, *Kaak v. Greece*, Application No 34215/16, Judgement of 3 October 2019.

<sup>576</sup> Bar Association of Athens, Opinion No. 143, 11 September 2023. For more information in English, see ELENA, *Greece: Athens Bar Association's interpretation of the Greek Bar Code on guaranteeing the lawyer-asylum applicant relationship without criminalisation*, 12 September 2023, available at: <https://bit.ly/3Ja4TCL>.

<sup>577</sup> *Ibid.*

instance, 24 lawyers were appointed on the islands. These lawyers have been appointed to provide free legal aid under the State-funded legal aid scheme at second instance as follows: 12 lawyers on **Lesvos**, 2 lawyers on **Samos**, 4 lawyers on **Chios**, 2 lawyers on **Kos**, 2 lawyers on **Rhodes**, and 2 lawyers on **Leros**.<sup>578</sup> Based on legal actors' observations, including GCR, however, there were usually not that many lawyers operational, due to administrative obstacles and issues. Additionally, lawyers appointed on the islands do not necessarily reside on the islands. Most of the times, the meetings between asylum seekers and lawyers were made through phone or video-call and not with physical presence.

Since June 2020, by decision of the administration of the Central Asylum Service, there has been a "[p]rovision of legal assistance through video conference to the Regional Asylum Services of Leros, Samos, Chios and Lesvos due to increased needs in the provision of legal aid services in the second degree to applicants for international protection". As a result, some asylum applicants reported communication issues with their State-registered lawyers and the short duration of their preparation meetings.

In 2023, the total number of appeals lodged in Greece against first instance negative decisions were 10,973, from which only 960 (9%) were lodged before the islands' RAOs and the rest in the mainland's RAOs.<sup>579</sup> The total number of appellants who applied and benefited from free legal aid is 2.066 in the 1st Quarter of 2023, 932 in the 2nd Quarter of 2023, 1.651 in the 3rd Quarter of 2023 and 2.243 in the 4th Quarter.<sup>580</sup> There are no available statistics with regard to the number of cases for which free legal assistance from Registry Lawyers was requested in the Eastern Aegean Islands' RAOs.

As also mentioned in the [Regular Procedure: Legal assistance](#) no tailored State-funded free legal aid scheme exists for submitting judicial remedies before Courts against a second instance negative decision.

## 6. Accelerated procedure

### 6.1. General (scope, grounds for accelerated procedures, time limits)

The Asylum Code provides that the basic principles and guarantees applicable to the regular procedure also apply in the accelerated procedure and that "the accelerated procedure shall have as a sole effect to reduce the time limits".<sup>581</sup> The law does not provide for a general exemption of vulnerable applicants from the accelerated procedure. The only exception regards UAM under the age of 15 who may be subjected to the accelerated procedure only under conditions (see further bellow). The wording of the law remains misleading, considering that the accelerated procedure entails exceptions from automatic suspensive effect and thereby applicants' right to remain on the territory. According to Article 88(4) Asylum Code, the examination of an application under the accelerated procedure must be concluded within 20 days, subject to the possibility of a 10-day exception.

The Asylum Service is in charge of issuing first instance decisions for both regular and accelerated procedures. An application is being examined under the accelerated procedure when:<sup>582</sup>

- (a) the applicant during the submission of his/her application invoked reasons that manifestly do not meet the conditions of the status of refugee or of subsidiary protection;
- (b) the applicant comes from a [Safe Country of Origin](#);
- (c) the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision;
- (d) the applicant has likely destroyed or disposed in bad faith of documents of identity or travel which would help determine his/her identity or nationality;

<sup>578</sup> MoMA, Decision No 1836/21, 16 February 2021.

<sup>579</sup> MoMA, Report A, December 2023, Reception, Identification & Asylum Procedures, available at: <https://tinyurl.com/5fmnbpmz>, 10.

<sup>580</sup> MoMA, Report A, December 2023, Reception, Identification & Asylum Procedures, available at: <https://tinyurl.com/5fmnbpmz>, 11.

<sup>581</sup> Art. 88 (2) Asylum Code.

<sup>582</sup> Art. 88 (9) Asylum Code.

- (e) the applicant has presented manifestly inconsistent or contradictory information, manifestly lies or manifestly gives improbable information, or information which is contrary to adequately substantiated information on his or her country of origin which renders his or her statements of fearing persecution unconvincing;
- (f) the applicant submitted a subsequent application;
- (g) the applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means;
- (h) the applicant entered the country “illegally” (sic) or he/she prolongs “illegally” his/her stay and without good reason, he/she did not present himself/herself to the authorities or he/she did not submit an asylum application as soon as possible, given the circumstances of his/her entrance;
- (i) the applicant refuses to comply with the obligation to have his or her fingerprints taken in accordance with Regulation (EU) No 603/2013.
- (j) the applicant may be considered on serious grounds as a threat to the public order or national security; or
- (k) the applicant refuses to comply with the obligation to have his or her fingerprints taken according to the legislation

Exceptionally, asylum applications of unaccompanied minors shall be examined in accordance with the accelerated procedure only if:<sup>583</sup>

- a. the unaccompanied minor comes from a country included in the list of safe countries of origin pursuant to par. Article 92 of the Asylum Code; or
- b. the unaccompanied minor has submitted a subsequent application and the preliminary examination, pursuant to par. 2 of Article 94 of the Asylum Code, has not shown the existence of new essential elements; or
- c. the unaccompanied minor is considered, for serious reasons, to be a danger to the national security or public order of the Member State, or has been forcibly removed for serious reasons of national security or public order.

In 2023, 5,167 asylum applications – examined under an accelerated procedure - were rejected at first instance.<sup>584</sup>

## 6.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?  Yes  No
  - ❖ If so, are questions limited to nationality, identity, travel route?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The conduct of the personal interview does not differ depending on whether the accelerated or regular procedure is applied (see section on [Regular Procedure: Personal Interview](#)).

<sup>583</sup> Art 88(10) Asylum Code.

<sup>584</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>.

### 6.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
- ❖ If yes, is it  Yes  No
- ❖ If yes, is it suspensive  Judicial  Administrative
- Yes  Some grounds  No

Since the entry into force of the IPA, the time limit for lodging an appeal against a decision in the accelerated procedure is 20 days,<sup>585</sup> as opposed to 30 days in the regular procedure. The Appeals Committee must reach a decision on the appeal within 20 days of the examination.<sup>586</sup>

Appeals in the accelerated procedure in principle do not have automatic suspensive effect (see [Suspensive Effect](#)).<sup>587</sup> The Appeals Committee decides on appeals in the accelerated procedure and on appeals against manifestly unfounded applications in single-judge format.<sup>588</sup>

In 2023, 3,442 negative decisions were issued at second instance - rejected as manifestly unfounded (safe country of origin).<sup>589</sup>

### 6.4. Legal assistance

#### Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
- ❖ Does free legal assistance cover:  Yes  With difficulty  No
- Representation in interview
- Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?
- ❖ Does free legal assistance cover  Yes  With difficulty  No
- Representation in courts
- Legal advice

The same legal provisions and practice apply to both the regular and the accelerated procedure (see [Regular Procedure: Legal Assistance](#)).

<sup>585</sup> Article 97(1)(b) Asylum Code.

<sup>586</sup> Article 106(1)(b) Asylum Code.

<sup>587</sup> Article 110(2)(e) Asylum Code, citing Article 88 (9) & (10) Asylum Code.

<sup>588</sup> Article 116(7) IPA that remains in force according to Article 148(a) Asylum Code.

<sup>589</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 9b.

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?  Yes  For certain categories  No  
❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children?  Yes  No

The “Asylum Code”, *i.e.*, Law 4939/2022 ‘ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons’,<sup>590</sup> in force since 10 June 2022, repealed the IPA (International Protection Act, *i.e.*, Law 4636/2019).<sup>591</sup> The Asylum Code does not include any amendments to the definition of vulnerable groups and persons in need of special procedural guarantees.

According to Article 1(λγ) Asylum Code, the following non-exhaustive groups are considered as vulnerable:

‘children; unaccompanied children; direct relatives of victims of shipwrecks (parents, siblings, children, spouses); disabled persons; elderly; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illness; persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation.’

According to Article 62(2) Asylum Code, ‘[t]he assessment of vulnerability shall take place during the identification process, the registration process and the medical screening of the Art. 41 without prejudice to the assessment of international protection needs’. According to Article 62(4) of the Asylum Code ‘[o]nly the persons belonging to vulnerable groups are considered to have special reception needs and thus benefit from the special reception conditions’. Article 62(3) of the Asylum Code provides that ‘[...] the special condition of applicants, even if it becomes apparent at a later stage of the examination of the application for international protection, is taken into account throughout this procedure [...]’.

According to Article 77(3) Asylum Code:

‘[...] Upon the completion of the medical and psychosocial assessment, the [Medical Screening and Psychosocial Support] Unit of the RIC [...] shall inform the Head of the competent RAO. The above-mentioned assessment is also notified to the Manager of the RIC. That assessment shall have as only consequence the immediate provision of special reception conditions and special procedural guarantees to the applicant.’

According to Article 72(1) Asylum Code relating to special procedural guarantees:

‘The Receiving Authorities shall assess within a reasonable period of time after an application for international protection is submitted, or at any point of the procedure the relevant needs arise, whether the applicant requires special procedural guarantees, due to –among others- their age, gender, sexual orientation, gender identity, psychological disorder or because they are a victim of torture, rape or other serious forms of psychological, physical or sexual violence.’

A new General Secretariat for Vulnerable Persons and Institutional Protection (GSVP) falling under the responsibilities of the Deputy Minister of Migration and Asylum was established with article 6(1) of P.D. 77/2023 (A’ 130/ 27-06-2023) to which the services of the Special Secretariat for the Protection of Unaccompanied Minors of article 39 of the P.D. 106/2020 were transferred.<sup>592</sup>

<sup>590</sup> Asylum Code, Gov. Gazette A’ 111/10.06.2022.

<sup>591</sup> L 4636/2019, Gov. Gazette A’ 169/01.11.2019.

<sup>592</sup> For more information, see MoMA’s General Secretariat for Vulnerable Persons and Institutional Protection, home webpage, available at: <https://tinyurl.com/2u63bw7y>.



The number of asylum seekers registered by the Asylum Service as vulnerable in 2023 was not provided, nor was the number and type of decisions taken at first instance on cases of vulnerable applicants. The number of first instance decisions granting refugee status or subsidiary protection to vulnerable applicants in 2023 was not provided either. The only statistical information available for vulnerable persons for 2023 (1 January-31 December 2023) regarded the number of registered children in general and unaccompanied children in particular and the number/type of first and second instance asylum decisions, which is as follows:

- ❖ the number of registered children in 2023 amounted to a total number of 14,631, thus 23% in a total of 64,212 registered asylum applications.<sup>593</sup>
- ❖ the number of registered unaccompanied children in 2023 amounted to a total number of 2,937 (2.895 registered UAMs for first asylum applications and 42 for subsequent asylum applications), thus 4,3% of a total of 69,043 registered asylum applications. (Note: the number [69,043] of the total registered asylum applications is higher here compared to the relative number of registered asylum applications mentioned above [64,212], because this number [69,043] includes also December 2022, which is not the case for the second number [64,212], which includes data from January – December 2023).<sup>594</sup>
- ❖ the number of 1<sup>st</sup> and 2<sup>nd</sup> instance decisions granting refugee status and subsidiary protection to children amounted to a total of 7,557 (7,366 decisions granting refugee status & 191 decisions granting subsidiary protection), thus 29% in a total of 25,813 positive asylum decisions.<sup>595</sup>
- ❖ the number of 1<sup>st</sup> instance decisions granting refugee status and subsidiary protection to UAMs amounted to a total of 1,163 (1,133 decisions granting refugee status & 30 decisions granting subsidiary protection), of which 902 decisions regarded male UAMs and 261 regarded female UAMs.<sup>596</sup>

## 1.1 Screening of vulnerability

### 1.1.1 Vulnerability identification in the border regions

According to the law, the identification of vulnerability of individuals arriving at the border regions shall be carried out either by the RIS before the registration of the asylum application or during the asylum procedure.<sup>597</sup>

#### Vulnerability identification by the RIS

According to Article 41 Asylum Code regarding registration and medical examination, in the context of reception and identification procedures carried out by the RIS:

“The third stage of the reception and identification procedure regarding "Registration and Medical Examination" includes: [...]d) the care for those who belong to vulnerable groups, so that they are provided with specialized care and protection. In particular, the Manager of the Reception and Identification Centre (RIC) or the Closed Controlled Access Centre (CCAC) or Unit, acting on a motivated proposal of the competent medical staff of the Reception and Identification Centre or the Closed Controlled Structure, shall refer persons belonging to vulnerable groups to the competent, based on each case, public institution of social support or protection. A copy of the medical screening and psychosocial support file is transmitted to the Head of the institution where the person resides or is being referred. In all cases, the continuity of the medical treatment followed shall be ensured, where necessary. The assessment that a person is vulnerable shall have as only consequence the immediate provision of special reception conditions.

<sup>593</sup> MomA, *Information Note A, December 2023, Reception, Asylum & Integration Procedures*, p. 8, available in Greek at: <https://tinyurl.com/59d5hubb>.

<sup>594</sup> *Ibid.*

<sup>595</sup> *Ibid.*, p. 14.

<sup>596</sup> *Ibid.*, p. 15.

<sup>597</sup> Articles 41 & 80(3) of the Asylum Code for vulnerability identification by RIS and articles 62(5), 72(1, 3), 77(3) and 80(3) for vulnerability identification in the asylum procedure.

According to Article 80 (3) of the Asylum Code regarding applications of UAMs: ‘In case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In cases the above-mentioned referral is considered necessary and until the completion of the procedure, special attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities’ (see below).

Since the end of 2019, the authority competent for carrying out medical checks has been the National Public Health Organisation (EODY), which was established by L 4633/2019 as the successor of KEELPNO.

Based on data published by the MoMA in the first months of 2024, the number of those registered as vulnerable by the RIS at the borders and in mainland RICs throughout 2023, based on the category of vulnerability, stands as follows:<sup>598</sup>

Vulnerability category	Number of persons
Disabilities	246
UAMs	2,364
Pregnancy	519
Victims of Human Trafficking	114
Victims of Abuse	2,115
Single families (total number of persons)	2,569
Elderly (>65 years)	177
<b>Total</b>	<b>8,104</b>

During the same period (2023), EUAA staff identified 7,940 persons as presenting vulnerability indicators, in the context of vulnerability assessments carried out in reception facilities, as part of the support provided by the Agency to Greece’s first and second-line reception system,<sup>599</sup> but the extent to which these numbers overlap is not possible to assess.

The number of persons identified as vulnerable after conclusion of the reception and identification procedures and the number of persons identified as vulnerable after re-examination were not provided by the competent Ministry. Moreover, no information was provided regarding the competent authority to cover the expenses in cases where transfer to another island was necessary for the vulnerability assessment.

The low quality of the process of medical and psychosocial screening, if any, has remained a source of serious concern also in 2023. As stated in AIDA report for 2022,<sup>600</sup> vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. Equal Rights Beyond Borders, HIAS Greece and RSA have reported that “[s]evere delays persist when it comes to conducting vulnerability assessments even after the reception and identification procedure formally ends: The time delay ranges from ten days to longer than three months in some cases. Yet, the Asylum Service and EUAA continue to process asylum claims before individuals have undergone a vulnerability assessment, and routinely disregard or deny special procedural guarantees afforded by EU law, even where they are specifically requested by the applicants in writing and/or orally prior to the interview. They instead insist on completing the interview under the border procedure. The medical cards issued to people undergoing reception and identification procedure do not clearly indicate whether and when a vulnerability assessment was conducted”.<sup>601</sup> The organisations further report that, “[o]n the one

<sup>598</sup> MoMA, Secretary General for the reception of Asylum Seekers / Reception and Identification Service / Directorate of RICs & CCACs, *Registrations 12 months 2023*, available in Greek at: <https://tinyurl.com/ytfkxkfu>, p.7 and *Registrations 12 months mainland 2023*, available at: <https://tinyurl.com/48jc9u7x>, p.5.

<sup>599</sup> Information provided by the EUAA, 26 February 2024.

<sup>600</sup> ECRE, AIDA, *Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>.

<sup>601</sup> Equal Rights Beyond Borders, HIAS Greece & Refugee Support Aegean, *The state of the border procedure on the greek islands*, September 2022, available at: <https://bit.ly/40VTZrM>, p. 4.

hand, the RIS consistently issues referrals of the individuals concerned to the competent authorities (i.e., the Asylum Service and Hellenic Police) stating that the reception and identification procedure has been completed without a finding of vulnerability. On the other hand, the exact date of the medical check and vulnerability assessment is not marked in the case file of the person. The Foreigner's Medical Card (Κάρτα Υγείας Αλλοδαπού) issued on the day the reception and identification procedure takes place automatically carries that same date. The card may be amended following an assessment, in which case a re-issuance date is indicated. However, this is not necessarily the date on which the vulnerability assessment takes place. This means that asylum seekers are referred to the Asylum Service with a Medical Card which in most cases precedes the actual medical check and vulnerability assessment."<sup>602</sup>

Based on GCR's information from the field, in 2023, the main problems arising out of the Reception and Identification procedures continue and include the lack or complete absence of psychosocial assessment, the difficulties in carrying out referrals from RIS to public hospitals, the low quality of the medical screening and psycho-social support, the classification of vulnerability and non-vulnerability and the lack of information on the outcome of the procedure.<sup>603</sup> As mentioned in the [Regular procedure](#) and [Fast-track border procedure](#), many asylum seekers continue being forced to attend their personal interview with the Asylum Service without a prior assessment of their vulnerability, including pregnant women.

The number of healthcare professionals involved in the provision of medical and psychosocial services at the different Reception and Identification Centres in the border regions in 2023 is not available.

**Chios:** In Chios CCAC (Vial camp), the Medical Unit has no doctor since March 2021. In 2023, periodically, the doctor of Leros CCAC Medical Unit was visiting Chios CCAC only to sign vulnerability assessment documents and medical cards, without carrying out a substantive assessment of the medical condition of the asylum applicants. Shortages of medicines and medical equipment (e.g., for blood pressure/diabetes) are observed in the Medical Unit of RIS (Vial). While a state budget is foreseen for intra-island transport costs, the Ministry does not make use of and all transportation to and from Chios General Hospital is covered by NGO Open Arms. Rub halls with single room and no beds (only mattresses on the floor) are used for the accommodation of nuclear families together with monoparental families and single men. RIS encounters problems with interpretation in the majority of languages; the only interpretation available is for arabic and somali<sup>604</sup>. Moreover, according to a report of RSA: "[...] *The vulnerability evaluation procedure seems to be inadequate, as in an attempt to find a solution to the serious shortage of medical staff, nursing staff is called upon to fill the gap, by asking asylum seekers questions. Then, the relevant documents are signed by a doctor who visits the structure from Chios' hospital or from a National Public Health Organisation Unit*"<sup>605</sup>.

**Samos:** On 30 November 2023, on case of D.S. v. Greece [Application no. 2080/2019], the ECtHR ruled that Greece violated article 3 and 13 of the ECHR for the living conditions of a young single woman refugee in the former camp of Samos and her lack of access to an effective remedy. The case was represented before the ECtHR by GCR. In particular, the Court rejected the Greek Government's arguments that the applicant had not been identified as a vulnerable person by the authorities and observed that the applicant's lawyer had informed the authorities of her fragile state and had requested, since the moment of her arrival, that she receives decent accommodation and psychological assistance.<sup>606</sup>

Regarding the living conditions and vulnerability assessment in Samos CCAC, twenty civil society organisations based in Samos in a joint statement dated 31 January 2024 stated: "*Since the implementation of the CCAC, an automatic de facto detention regime has been put in place for newly*

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<sup>602</sup> *Ibid.*, p. 15.

<sup>603</sup> For a detailed description of the issues during the procedure of the vulnerability assessment, See ECRE, AIDA, Country Report: Greece, 2021 Update, May 2022, available at: <https://bit.ly/3MRVkJf>.

<sup>604</sup> Information shared by Chios UNCHR Field Office during GCR mission (January 2024).

<sup>605</sup> Refugee Support Aegean (RSA) / PRO ASYL, *What is happening today in the refugee structures on the Aegean islands – Serious problems in the EU-funded structures*, May 2023, pp. 46-47, available at: <https://tinyurl.com/ycy45tjs>.

<sup>606</sup> GCR, *Press Release: European Court of Human Rights condemns Greece for the degrading living conditions of a young single woman refugee in Samos*, 18 December 2023, available at: <https://tinyurl.com/3rj6r2a3>.

arrived people [...] until their registration procedures with the police and First Reception have been completed. According to Greek law, this de facto detention period [...] is not supposed to exceed 25 days, [...] (and) only by way of exception. During this period, [...] (v)ulnerability assessments are not conducted, leaving pregnant women, unaccompanied minors, people with medical conditions or SGBV survivors without the proper care they need and are legally entitled to. [...] Since the opening of the CCAC [...] one state-appointed doctor worked inside the medical unit of the facilities, for one month, between October and November 2023. [...] As there are no health workers present in the facilities, their medical needs are assessed by police officers or security employees, who are not qualified to do so. Any person who resides in the CCAC and especially those who are de facto detained, have insufficient and inconsistent access to medical care. Additionally, due to the absence of healthcare and individual vulnerability assessments, asylum seekers with communicable diseases risk remain undetected or unable to seek medical treatment for several weeks after arrival which causes a serious risk of contagion”<sup>607</sup>.

Moreover, according to a joint submission of GCR & OXFAM to the European Ombudsman in March 2023: “[...] there is currently no designated staff on site for vulnerability identification or assessment. This means that vulnerabilities are currently not taken into account during the interview or in the decision-making on individual cases. Moreover, it means that individuals with vulnerabilities, including GBV survivors, torture survivors, traumatised individuals, those with PTSD, people in need of psycho-social and mental health support, as well as those with serious medical conditions, chronic diseases or particular needs are not offered the support or procedural safeguards that they have a right to. The Medical Unit of the CCAC has no doctor and lacks the required specialised medical staff to examine alleged minors and assess their age. Regarding Victims of Torture (VoTs), [...] the reception state, is required to provide specialized staff as well as continuous specialized training to public staff. However, there is currently a lack of specialist staff in the Medical and Psychosocial Unit of the CCACs’ Reception and Identification Service (RIS) and the islands’ General Hospitals. Therefore, there currently is no systematic identification and assessment of a VOT and/or GBV, contrary to the Istanbul Convention’s provisions and Istanbul Protocol on procedural safeguards”.<sup>608</sup>

**Kos:** Shortcomings related to understaffing were also reported in 2023 in the RIS of Kos, as there was no EODY doctor, nor a psychologist, resulting in medical services currently being provided by an army doctor and medical missions of the Hellenic National Public Health Organization medical teams deployed from other CCACs<sup>609</sup>. Thus, vulnerability assessments were signed in mass when a visitor doctor from EODY arrived at the RIS. Based on GCR’s observations, only obvious vulnerabilities were identified (e.g., pregnant women, elderly people); while victims of GBV or Female Genital Mutilation were often identified as vulnerable by RIS only after issuance of a first instance negative decision on their asylum application.

Moreover, according to a joint submission of GCR & OXFAM to the European Ombudsman on March 2023: “In [...] Kos, a doctor from Leros island occasionally visits the facility. This makeshift solution jeopardizes residents’ health, as there is no one to provide medical first aid or to assess daily health risks in the CCAC. [...] Moreover, the lack of full-time medical staff hinders adequate and timely vulnerability and age assessments, procedural safeguards that have a significant impact on the outcome of individuals’ asylum procedure”.<sup>610</sup>

On 12 December 2023, in a case represented by GCR before the ECtHR, the Court -pursuant to Rule 39 of the Rules of the Court- granted Interim Measures with regards to two Afghan women and their five accompanied minor children residing at the CCAC of Kos in absolutely inadequate conditions. The Court

<sup>607</sup> Joint Statement of 20 civil society organisations, *NOT AGAIN IN 2024 – Call for upholding human rights in the Samos Closed Controlled Access Centre*, 31 January 2024, pp. 1-4, available at: <https://tinyurl.com/3dxhybnk>.

<sup>608</sup> GCR / OXFAM, *Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands / Case OI/3/2022/MHZ*, Joint submission to the European Ombudsman, p. 15, available at: <https://tinyurl.com/bd4wpe3d>.

<sup>609</sup> Information provided by a representative of the Administration during the GCR mission to Kos on 6 December 2023.

<sup>610</sup> GCR / OXFAM, *Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands / Case OI/3/2022/MHZ*, Joint submission to the European Ombudsman, p. 13, available at: <https://tinyurl.com/bd4wpe3d>.

ordered the Greek authorities to ensure that the applicants "have full access to reception conditions which respect human dignity and take into account their multiple vulnerabilities".<sup>611</sup>

**Leros:** "According to the UNHCR, at the end of March (2023) there were two doctors and a psychologist inside the CCAC. At the local hospital, staff shortages, which make the medical care of all patients problematic, have been repeatedly denounced. The hospital does not have an interpreter"<sup>612</sup>.

**Lesvos:** In a letter addressed to the authorities dated 12 December 2023 regarding access to food and medical care in Lesvos CCAC, 16 non-governmental organisations stated that in: "CCAC Lesvos [...] people in need of international protection do not effectively have access to medical care, medication and mental health and psychosocial support [...] due to a severe lack of capacity and lack of qualified staff, applicants are systematically not correctly examined, and many don't have their vulnerabilities correctly acknowledged or acknowledged at all, especially when non-visible. Also, [...] in many cases, no initial mental health assessment is conducted. [...] On Lesvos, there are currently 2 doctors of [...] EODY responsible for conducting the medical examinations in the CCAC. However, considering that there are regularly more than 100 new arrivals per week, and that these doctors are also in charge of the public healthcare provision of approximately 5200 residents, it is clear that the capacity of EODY does not meet the needs of the facility and must urgently be adapted".<sup>613</sup> Moreover, according to a report of FENIX dated April 2023: "vulnerability assessments only consist of a medical examination on Lesvos - psychosocial assessments may only be conducted whether the doctor who conducts the medical assessment requests it, raising the likelihood of leaving unrecognised many non-visible vulnerabilities. If the asylum applicants go through a psychosocial assessment, the doctor who conducted the initial medical examination has to accept and agree with the observations by the psychologist. Asylum applicants can request a reassessment; however, in practice, this is challenging for applicants who do not have legal representation and delays are frequent. More recently, reassessments for persons between asylum applications stopped being conducted. [...]"<sup>614</sup>. Moreover, "since November 2022, no psychosocial assessments have been conducted on Lesvos without an explicit request by the doctor responsible for the medical examination, contradicting Greek legislation".<sup>615</sup>

**Rhodes:** According to a report of RSA dated 21 December 2023: "In recent months, due to delays in people's transfer to other areas outside Rhodes where there is adequate infrastructure, the majority of new arrivals on the island – including families with young children – end up sleeping in parks, pavements, squares, on cardboard boxes, in tents and makeshift sheds. According to UNHCR data, 6,290 people had arrived in Rhodes from the beginning of the year to December 10. [...] newcomers on neighbouring islands such as Kastelorizo are also initially transferred to Rhodes. There is no formal or informal accommodation structure in Rhodes, while the closest infrastructure for asylum seekers' first reception and identification procedures is on the island of Kos [...] newcomers' countries of origin are mainly Syria and Palestine, i.e., people with a purely refugee profile. According to UNHCR, Rhodes has had the highest number of arrivals in the Dodecanese in recent months. This creates huge delays in registration, preventing the people's transfer to Kos, Leros or the mainland".<sup>616</sup>

**Crete & Gavdos:** According to a publication by RSA dated 19 December 2023: "In recent months, there has been an increase in the number of ships arriving in Crete and Gavdos, islands which have no official

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<sup>611</sup> GCR, Press release, *Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures*, 14 December 2023, available at: <https://tinyurl.com/46rjsrjr>.

<sup>612</sup> Refugee Support Aegean (RSA) / PRO ASYL, *What is happening today in the refugee structures on the Aegean islands – Serious problems in the EU-funded structures*, May 2023, available at: <https://tinyurl.com/ycy45tjs>, p. 50.

<sup>613</sup> Letter of 16 non-governmental organisations to the authorities, *Human Rights, But Not for All: Open Letter on Access to Food and Medical Care in Lesvos Closed Controlled Access Center*, 12 December 2023, available at: <https://tinyurl.com/mv4xmram>.

<sup>614</sup> FENIX – Humanitarian Legal Aid, *Unrecognised Vulnerability- Greece's systematic failure to identify and certify Victims of Torture*, April 2023, pp. 13-14, available at: <https://tinyurl.com/mwpxajcv>.

<sup>615</sup> FENIX – Humanitarian Legal Aid, *Modern Slavery and Human Trafficking of Forcibly Displaced Persons in Greece and Turkiye*, October 2023, p. 46, available at: <https://tinyurl.com/5ekpxev9>.

<sup>616</sup> Refugee Support Aegean-RSA, *Rhodes: Newly arrived refugees with no shelter and adequate food, at the mercy of winter*, 21 December 2023, available at: <https://bit.ly/448Y5Pt>.

*infrastructure for the first reception of asylum seekers and their identification procedures. [...] Those who arrive in Gavdos and Chania are often transferred to the children's summer camps at Kalathas in Akrotiri. Usually, only volunteer doctors and the Red Cross may enter this site, which is guarded by the police. The Municipality of Chania claims that the accommodation cost is prohibitive [...] Those who arrive in Heraklion prefecture are usually transferred to the dockers' hall in the port of Heraklion, where there is no infrastructure, not even beds, and which is also guarded by the police. [...] they are not informed about the procedures to be followed and their rights in relation to asylum, and reception and identification procedures do not take place as required by law. Furthermore, it is not clear whether and by what procedure the authorities identify unaccompanied minors and children accompanied by an adult who is not their legal guardian (separated). Practices to date indicate that there are cases where minors have been wrongly registered as adults. [...]'.<sup>617</sup>*

In most cases, based on GCR's and partners' observations, asylum claims are being examined before vulnerability assessments are carried out, and, in any case, the outcome of the latter are often not communicated to the Asylum Service before it issues its decision on the application.

The lifting of the geographical restriction (see also Reception Conditions A4. [Freedom of Movement](#)).

Under the IPA and the Asylum Code, the recognition of vulnerability of asylum seekers has no bearing on the asylum procedure under which their application is examined. Therefore, vulnerable groups, even when identified as such, are no longer referred to the [Regular procedure](#), unless it is proven that no appropriate health care regarding their individual medical problem is available on the island where they reside (See below). In such cases, the geographical restriction imposed upon arrival is lifted and the applicant is transferred or allowed to travel to the mainland. Therefore, the exemption of vulnerable individuals from the [Fast-Track Border procedure](#) has become much more difficult.

More precisely, the movement of asylum-seekers who entered Greece through the islands of Lesbos, Chios, Samos, Kos, Leros, and Rhodes during 2023 is limited to within their respective island ('geographical restriction'), as per Ministerial Decision 1140/2.12.2019 (GG B' 4736/20.12.2019) in force since 1 January 2020.<sup>618</sup> Greek law transposes Article 7 RCD, allowing Member States to impose a restriction of movement to asylum-seekers within a specific area, provided that it does not affect their unalienable sphere of private life and that it allows sufficient scope for guaranteeing access to all the benefits granted under the Directive. Until 31 December 2019, the geographical restriction could be lifted, *inter alia*, in respect of vulnerable persons. Following amendments to the law, since 1 January 2020, the geographical restriction may *inter alia*<sup>619</sup> be lifted by a decision of the Manager of the RIC for vulnerable persons or persons in need of special reception conditions if appropriate support may not be provided within the area of restriction,<sup>620</sup> without sufficiently describing what such appropriate support entails.<sup>621</sup>

The number of decisions to lift geographical restrictions per RIC and per category of vulnerability (or other cases) in 2023 is not publicly available, nor was it provided by the MoMA following GCR's relevant request.

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<sup>617</sup> Refugee Support Aegean-RSA, *Crete and Gavdos have no reception and identification procedures despite the increased arrivals*, 19 December 2023, available at: <https://bit.ly/49Noq6L>.

<sup>618</sup> This act is based on Article 45 L. 4636/2019. It is worth noting that the act mentions that the geographical restriction is necessary for the implementation of the EU-Türkiye statement.

<sup>619</sup> Except for the case of vulnerable persons and persons in need of special reception conditions, the geographical restriction may be lifted in the case of: a. unaccompanied minors; b. persons falling under the family reunification provisions of Articles 8-11 of Dublin Regulation, only after the person is accepted by the concerned member state; and c. persons whose applications for international protection are reasonably considered to be founded.

<sup>620</sup> See Article 67 (2) L. 4636/2019 and Article 2 (d) of the Ministerial Decision 1140/2.12.2019.

<sup>621</sup> According to Article 67 (2) L. 4636/2019, '[w]here applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to allow them to benefit from the rights and comply with the obligations of this Part throughout the duration of the procedure. Forms of adequate support shall, in particular, consist of additional break times during the personal interview in accordance with Article 77, allowing the applicant to move during the personal interview if this is necessary because of his or her health condition, as well as showing leniency to non-major inaccuracies and contradictions, where these are related to his/her health condition.'

## Vulnerability identification in the asylum procedure

According to Article 77 (3) of the Asylum Code:

‘During the Reception and Identification procedure or the border procedure of art. 95 of this law, the Receiving Authorities or the Decision Authorities and especially the Regional Asylum Offices or the Autonomous Asylum Units shall refer the applicant for international protection to doctors of Public Hospitals or Public Mental Health Institutions or other contracted physicians or the Medical Screening and Psychosocial Support Unit of the RIC for the vulnerability assessment under the Article 41 of this law. Upon the completion of medical and psychosocial assessment, the Unit, acting on a written motivated proposal, shall inform the Head of the competent RAO. The above-mentioned proposal is also notified to the Manager of the RIC. That assessment shall have as only consequence the immediate provision of special reception conditions and special procedural guarantees to the applicant.’

According to Article 80 (3) of the Asylum Code ‘[i]n case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In case the above-mentioned referral is considered necessary and until the completion of the procedure, special attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities.’

Article 72(1) of the Asylum Code provides that ‘[t]he Receiving Authorities shall assess within a reasonable time after the application for international protection is lodged or at any point of the procedure the relevant need arises, whether the applicant requires special procedural guarantees as a consequence, *inter alia*, of age, gender, sexual orientation, gender identity, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence’. According to Article 72(3) of the Asylum Code ‘When adequate support cannot be provided [to the applicants] within the framework of the accelerated procedure (art. 83 (9) IPA) and border procedure (art. 90 IPA), especially when the applicant needs to be provided with special procedural guarantees as a consequence of torture, rape or other forms of serious psychological, physical or sexual violence, the abovementioned procedures do not apply or cease to apply [...]’.

Also, according to Article 62 (5) of the Asylum Code ‘[i]n case the competent Authorities identify victims of human trafficking, they are obliged to inform as soon as possible the National System of Recognition and Referral of Victims of Human Trafficking in accordance with the Articles 76 and 79 L. 4781/2021’.

Despite these provisions, the shortage of medical and psychosocial care makes it extremely complicated and sometimes impossible for people seeking asylum to be (re-)assessed during that process. Following the medical and psychosocial assessment, the medical psychosocial unit of the RIC should inform the competent RAO or AAU of the Asylum Service.

As mentioned above, due to significant gaps in the provision of reception and identification procedures in 2023, owing to a significant understaffing of EODY units and other issues, GCR has found that for a considerable number of applicants the asylum procedure was initiated without a proper medical screening and/or a psychosocial assessment having been concluded.

Accordingly, where vulnerability is not identified before the asylum procedure, the initiation of a vulnerability assessment and further referral for vulnerability identification depends to a great extent on the discretion of the caseworker. However, according to GCR’s observations, the referral for further medical/psychosocial screening by the caseworker after the first instance interview before the competent RAO is not common practice.

Also, according to GCR’s knowledge, the understaffing of State authorities in combination with the constant pressure to process more asylum applications more quickly, resulted in a serious undermining of procedural legal safeguards and thus to decisions of poor quality and unjustified rejections in many cases. GCR has documented, from reports from the field, many cases in which the asylum interview took place before the medical examination of the asylum seeker, thus impacted negatively on the outcome of the asylum cases.

As far as GCR is aware, also in 2023, Article 72(3) of the Asylum Code (exemption from the fast-track border procedure and referral to the regular procedure due to vulnerability) was not applied by the Asylum Service without a prior lifting of the geographical restriction. It was also noted that after the lifting of the geographical restriction for reasons not related to vulnerability, Article 72(3) of the Asylum Code was applied in several cases by the Asylum Service and the case was referred to the regular procedure without the person being identified as vulnerable. If the interview of first instance had already been conducted before the decision to lift the geographical restriction and the referral to the regular procedure due to vulnerability, it was not conducted again in accordance with the guarantees provided by Article 72(2) of the Asylum Code. For further information on the geographical restriction, see chapter on Reception Conditions – [Freedom of Movement](#).

Data for applications exempted from the fast-track border procedure and referred to the regular procedure on grounds of vulnerability was not provided by MoMa despite GCR's request.

Throughout 2023, the various RAOs in the different islands followed different practices as regards the conduct of asylum interviews (see the [Regular procedure](#) and [Fast-track border procedure](#)).

### 1.1.2 Vulnerability identification in the mainland

In November 2021, the Greek authorities issued a circular establishing that asylum seekers (except for unaccompanied minors) who have not been through the reception and identification process can submit their asylum applications only in the Reception and Identification Centres (RIC) on the Aegean island hotspots of **Samos, Chios, Lesbos, Leros** and in the **Evros** region. However, strong opposition in the parliament prompted the government to clarify<sup>622</sup> that applicants will not be transferred from the mainland to the islands, without however providing further information on the competent authorities for the registration of their applications. According to the authorities, the island reception facilities will exclusively process the cases of people arriving by sea. Furthermore, Skype is no longer used as a channel to access the asylum procedure for new applicants.<sup>623</sup> Consequently, vulnerable persons in the mainland (with the exception of unaccompanied minors) who have not been subjected to the reception and identification procedures were not able to have access the asylum procedure via Skype. Moreover, even if a lawyer intervenes and requests the registration of the asylum application of a vulnerable person in the mainland, a medical document of vulnerability issued from a public entity is most of the times needed according to the competent Regional Asylum Offices.

On 13 July 2022, the new Asylum Service launched a new registration platform, through which any appointment for lodging an asylum application in the mainland, even for vulnerable asylum seekers, needs to be booked. According to the Ministry's announcement,<sup>624</sup> the registration of applicants staying in Southern Greece was to take place in the facility of Malakasa (Athens), while the registration of applicants staying in Northern Greece would take place in the facility of Diavata (Thessaloniki). Appointments were available from 1 September 2022. However, in practice, appointments were available several months later, depending on the language of the applicant. In the meantime, between November 2021 and September 2022, access to the asylum procedure on mainland Greece, Crete and Rhodes was suspended for the majority of third country nationals.<sup>625</sup> Access was suspended again between May 2023 and the beginning July 2023.<sup>626</sup>

<sup>622</sup> Correct repetition of Circular 411695/2021, 24 November 2021, available at: MOMA, Press release: *Procedure for Submitting Asylum Claims*, available at: <https://tinyurl.com/2kyervyc/>.

<sup>623</sup> Εφσυν, *Μόνο σε νησιά και Έβρο τα νέα αιτήματα ασύλου*, 24 November 2021, available in Greek at: <https://bit.ly/3t5Y4h2>.

<sup>624</sup> MOMA, *Ξεκινά η λειτουργία της πλατφόρμας ηλεκτρονικής αίτησης για ραντεβού καταγραφής αιτούντων άσυλο*, 13 July 2022, available in Greek at: <https://bit.ly/3Rw9HXO>.

<sup>625</sup> Mobile Info Team (MIT), *Blocked from the System: Voices of People Excluded from the Asylum Procedure on Mainland Greece, Crete and Rhodes*, May 2022, available at: <https://bit.ly/45wetd3>.

<sup>626</sup> GCR, *Submission to the Committee of Ministers of the Council of Europe concerning the groups of cases of M.S.S. v. Greece (Application No. 30696/09) and Rahimi v. Greece (8687/08)*, July 2023, p. 3, available at: <https://bit.ly/4b3Q3JR>.



According to a recent report of Refugee Legal Support and Mobile Info Team assessing the implementation of reception and identification procedures on mainland Greece: “*Under the new procedure [...] at one of two RICs on the Greek mainland, [...] applicants are unable to exit the facility for a maximum of 25 days while they undergo screening consisting of a police interview, medical check, vulnerability assessment, and the registration of an asylum claim [...]. Restriction of movement is applied as a blanket measure [...] including (to) vulnerable persons [...] meaning that people with a disability, pregnant women, victims of human trafficking, people with serious illnesses and torture survivors, among others, are subjected to de facto detention within the RICs for periods up to 25 days (and in practice possibly longer). [...] assessment of vulnerability within the screening procedure is inadequate [...].*”<sup>627</sup>

According to the law, when indications or claims of past persecution or serious harm arise (*i.e.*, torture survivors), the Asylum Service has to refer the applicant to a medical and/or psychosocial examination, which should be conducted free of charge and by qualified, specialised personnel. Alternatively, the applicant must be informed that they can undergo such examinations at their own initiative and expense.<sup>628</sup> However, Article 77(2) of the Asylum Code provides that “[a]ny results and reports of such examinations are deemed as justified by the Asylum Service where it is established that the applicant’s allegations of persecution or serious harm are likely to be well-founded’.

Currently, there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. As a result, it is for the NGOs running relatively specialised programmes, to handle the identification and rehabilitation of victims of torture. This is rather problematic for reasons that concern the sustainability of the system, as NGOs’ funding is often interrupted. In **Athens**, torture survivors may be referred for identification purposes to the NGO METAdrasi in the context of its programme “Hope and Memory: Identification and Certification of Victims of Torture”.<sup>629</sup> However, those referrals are mostly only made by other NGOs. According to a report of FENIX of April 2023 regarding identification and certification of victims of torture: “*practice over the years has demonstrated serious deficiencies in the identification and certification of victims of torture of applicants in Greece [...]. Additionally, structural deficiencies are also observed in the specific process to certify VoTs, namely due to restrictive legislation limiting only public authorities to provide certification for VoTs in accordance with the Istanbul Protocol, whilst national authorities and bodies do not have the qualification or training and lack of interpretation to proceed with this certification. At the same time, non-governmental organisations, namely Metadrasi, hold the appropriate expertise to provide certification for VoTs according to the Istanbul Protocol [...]. Nonetheless, [...] the VoT certification provided by NGOs may be taken into consideration by asylum authorities for the purposes of the asylum procedure, but it is at the discretion of each decision maker [...].*”<sup>630</sup>

Also, according to Article 62(5) of the Asylum Code “[i]n case the competent Authorities identify victims of human trafficking, they are obliged to inform the National Referral Mechanism (NRM) for the identification and referral of victims of Human Trafficking as soon as possible<sup>631</sup> in accordance with Articles 76 and 79 L. 4781/2021”.

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<sup>627</sup> Refugee Legal Support / Mobile Info Team, *Protection Unavailable: Dysfunctional Practices and Restrictions on the Right to Asylum Assessing the implementation of reception and identification procedures on mainland Greece*, November 2023, p. 32 et al., available at: <https://tinyurl.com/yrsjp5xa>.

<sup>628</sup> Article 77(3) Asylum Code.

<sup>629</sup> METAdrasi, *Hope and Memory: Identification and certification of victims of torture*, available at: <https://bit.ly/3JQEFP>.

<sup>630</sup> FENIX – Humanitarian Legal Aid, *Unrecognised Vulnerability- Greece’s systematic failure to identify and certify Victims of Torture*, pp. 6-7, available at: <https://tinyurl.com/mwpxajcv>.

<sup>631</sup> Office of The National Rapporteur on Trafficking in Human Beings, web page, available at: <https://bit.ly/3T60ZRw>.

## 1.2 Age assessment of unaccompanied children by the RIS and in the asylum procedure

On 13 August 2020, the Joint Ministerial Decision 9889/2020<sup>632</sup> entered into force, which sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum procedure.

Article 41 (f) Asylum Code, related to reception and identification procedures, refers to the relevant legislation, *i.e.*, JMD 9889/2020. According to Article 1(2) JMD 9889/2020, in case of doubt as to the person's age, *i.e.*, when the authority's initial assessment is not consistent with the person's statements,<sup>633</sup> the RIS or the Asylum Service or any authority/organisation competent for the protection of minors or the provision of healthcare or the Public Prosecutor should inform – at any point of the reception and identification procedures or the asylum procedure – the Manager of the RIC or the Facility of temporary reception/hospitality, where the individual resides, or the Head of RIS or the Asylum Service -if the doubt arises for the first time during the personal interview for the examination of the asylum application-, who, acting on a motivated decision, is obliged to refer the individual for age assessment. Age assessment is carried out by EODY within the RIC/CCAC, by any public health institution, or otherwise, by a private practitioner under a relevant programme.<sup>634</sup>

The age assessment is conducted following three successive steps, unless a safe conclusion can be drawn already at the first or second examination stage:

- Initially, the assessment is based on the individual's macroscopic features (*i.e.*, physical appearance) such as height, weight, body mass index, voice, and hair growth, following a clinical examination from properly trained healthcare professionals (*i.e.*, physicians, paediatricians, etc.) who will consider body-metric data.<sup>635</sup>
- In case the person's age cannot be adequately determined through the examination of macroscopic features, a psychosocial assessment is carried out by a psychologist and a social worker to evaluate the cognitive, behavioural and psychological development of the individual (second step). If a psychologist is not available or there is no functioning social service in the nearest public health institution, this assessment can be conducted by a specially trained psychologist and a social worker available from a certified civil society organisation but it cannot be conducted by an organisation in charge of providing care or housing to the person whose age is in question. The outcome of the age assessment at this point is a combination of the psychosocial assessment and the examination of the development of macroscopic features.<sup>636</sup>
- Whenever a conclusion cannot be reached after the conduct of the above procedures, the person will be subjected to the following medical examinations (last step): either left wrist and hand X-rays for the assessment of the skeletal mass, or dental examination or panoramic dental X-rays or any other appropriate means which can lead to a firm conclusion according to the international bibliography and practice.<sup>637</sup>

According to Article 1(7) JMD 9889/2020, the opinions and evaluations are delivered to the person responsible for the referral, who issues a relevant act to adopt the abovementioned conclusions, registers the age in the database of Reception and Asylum, and notifies the act to the Special Secretariat for the Protection of Unaccompanied Minors (which, since June 2023, has been replaced by the General Secretariat for Vulnerable Persons and Institutional Protection).<sup>638</sup>

<sup>632</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.

<sup>633</sup> See Article 1(3) JMD 9889/2020.

<sup>634</sup> See Art 4 JMD 9889/2020.

<sup>635</sup> See Article 1(5)(a) JMD 9889/2020.

<sup>636</sup> See Art. 1(5)(b) JMD 9889/2020.

<sup>637</sup> See Art 1(5)(c) JMD 9889/2020. Contrary to MD 92490/2013 and JMD 1982/2016 which provided for left wrist, hand X-rays, dental examination and panoramic dental X-rays cumulatively and not alternatively.

<sup>638</sup> See Presidential Decision 77/2023 (Government Gazette A' 130/ 27-06-2023), available in Greek at: <https://bit.ly/4b7MkL8>.

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal in accordance with the Code of Administrative Procedure. The appeal has to be submitted to the authority that issued the contested decision within 15 days from the notification of the decision on age assessment.<sup>639</sup>

In practice, the 15-day period may pose an insurmountable obstacle to receiving identification documents proving their age, as in many cases, persons under an age assessment procedure remain restricted in the RIC/CCACs. These appeals are in practice examined by the Central RIS. The number of appeals submitted against age assessment decisions in 2023 is not available, as at the time of writing the Greek authorities had not provided GCR with this information it requested. During regular parliamentary scrutiny procedures, though, the deputy minister for Migration and Asylum replied to the member of parliament who asked the relevant question that between 28/04/2021 and 29/03/2023 a total of 1,024 decisions were issued following an appeal against an initial age assessment decision.<sup>640</sup>

According to the findings of the Greek Ombudsman, following inspection visits in CCACs, RICs and CAFTAAS during the last semester of 2022 until December 2023, there is a number of problems, obstacles and malfunctions in the implementation of the age assessment process. Indicatively, according to the report, in **Samos** CCAC, it was found that the psychosocial assessment was not carried out at all due to the lack of training of the psychosocial team of the Unit and this stage was being skipped (contrary to the provision of the relevant JMD mentioned above), while the lack of a doctor in the facility of Samos had affected the age assessment, as well, before a doctor was sent from Leros to cover the gap.<sup>641</sup>

GCR's findings in **Lesvos** indicate that in a great number of cases, the age assessment procedure is carried out by two doctors,<sup>642</sup> with the one referring to the other in case of a doubt regarding the person's minority, a practice not prescribed in law. Also, in Lesvos CCAC inadequate implementation of the domestic legislation has been observed,<sup>643</sup> as lengthy delays in the age assessment procedures, unlawful use of X-rays, non-acceptance of identification documents, lack of specialised personnel and lack of information regarding the procedure, methods and potential consequences of the age assessment are all forming pieces of a puzzle that a child has to understand alone, given the lack of guardians for UASCs during the reporting period.

In **Kos**, according to GCR's field experience, the lack of sufficient medical personnel is reflected on this procedure as well. Persons who claim to be minors, contrary to the relevant JMD, have their age firstly assessed by psychosocial personnel (stage 2) and if the outcome is not conclusive, then any doctor working at the public hospital can offer his/her assessment regarding the age of the person (stage 1), as long as s/he is willing to participate in this procedure.

In **mainland** RICs of Diavata and Malakasa, the Medical Control and Psychosocial Support Unit (NPHO or EODY as is mostly used) is conducting the age assessment procedures, although the lack of a paediatrician at the Malakasa RIC, as well as the more general lack of medical staff or EODY Units in some facilities may affect or cause delays in the age assessment process.<sup>644</sup>

As mentioned above, in practice, the age assessment of unaccompanied children is an extremely challenging process as the procedure is not followed in a significant number of cases, *inter alia*, due to the lack of qualified staff. In this regard, it must be noted that GCR provided legal aid for three cases of

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<sup>639</sup> See Art. 1(9) JMD 9889/2020.

<sup>640</sup> Response rot.no 472645, 20 October 2023, available in Greek at: <https://tinyurl.com/yc4tut2x>, p.4

<sup>641</sup> Greek Ombudsman, *The Challenge of Migratory Flows and Refugee Protection Reception Conditions and Procedures*, April 2024, available in English and Greek at: <https://tinyurl.com/546kmb76>, see in particular pp. 150-152

<sup>642</sup> One doctor being a general practitioner and the other a urologist.

<sup>643</sup> Fenix Humanitarian Legal Aid, *Age Assessment Procedures on Lesvos: a Dead Letter*, January 2024, available at: <https://tinyurl.com/5ek48wfu>.

<sup>644</sup> Greek Ombudsman, *The Challenge of Migratory Flows and Refugee Protection Reception Conditions and Procedures*, April 2024, available in English and Greek at: <https://tinyurl.com/546kmb76>, p. 151.

unaccompanied children in 2023, in all of which the RIS authority accepted the child's appeal against the age assessment decision on the grounds that lack of staff does not constitute legal justification for skipping the second step stipulated in law (see above). The decision on the appeal annulled the initial age assessment as "the psychosocial assessment included in the file [...] does not reflect a reason to doubt the age assessment result, apart from 'impossibility of determining age due to lack of staff'. [Therefore] the decision to refer [the child] to the third stage of medical examination took place without adequate reasoning of the authority's inability to reach a conclusion at the second stage of the psychosocial assessment".<sup>645</sup>

Concerning age assessment in the asylum procedure, Article 80(3) Asylum Code provides for procedural safeguards and refers explicitly to 'applicable regulatory procedures', i.e., JMD 9889/2020. According to the aforementioned provision, 'when such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities.'

The provision also sets out guarantees during the procedure:

1. A guardian for the child is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the child, throughout the age determination procedure;
2. Unaccompanied children are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used, therefore, the possible consequences of the results of the above-mentioned age determination procedures for the examination of the application for international protection, as well as the consequences of their refusal to undergo this examination;
3. Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned;
4. The decision to reject an application of an unaccompanied child who refused to undergo this age determination procedure shall not be based solely on that refusal; and
5. Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such.

The law also states that 'the year of birth can be modified after the age determination procedure under Article 80, unless during the interview it appears that the applicant who is registered as an adult is manifestly a minor; in such cases, a decision of the Head of the competent Receiving Authority, following a recommendation by the case-handler, shall suffice.'<sup>646</sup>

The JMD was an anticipated legal instrument, filling the gap of dedicated age assessment procedures within the context of the Asylum Service and limiting the use of medical examinations to a last resort while prioritising alternative means of assessment. Multiple safeguards prescribed in both the IPA and JMD 9889/2020 regulate the context of the procedure sufficiently, while explicitly providing the possibility of remaining doubts and thus providing the applicant with the benefit of the doubt even after the conclusion of the procedure. However, the lack of an effective guardianship system also hinders the enjoyment of procedural rights guaranteed by national legislation (see [Legal Representation of Unaccompanied Children](#)).<sup>647</sup>

In practice, the lack of qualified staff within the reception and identification procedure and shortcomings in the age assessment procedure in the RIC undoubtedly have a spill-over effect on the asylum procedure, as the issuance of an age determination act by the RIS precedes the registration of the asylum application with the Asylum Service. While registration of date of birth by the Hellenic Police could be corrected by merely stating the correct date before the Asylum Service, this is not the case for individuals whose age has been wrongly assessed by the RIS. In this case, in order for the personal data, e.g., age, of the person to be corrected, the original travel document, or identity card should be submitted. Additionally, a birth

<sup>645</sup> See GCR, HIAS, RSA, *Greek Asylum Case Law Report (Δελτίο Νομολογίας Ασύλου in Greek)* issue 2, 2023, available in Greek at: <https://tinyurl.com/mp8s6jk6>, pp. 26-27.

<sup>646</sup> Article 84(4) of the Asylum Code.

<sup>647</sup> See also GCR, *Without papers, there's no life: Legal barriers in access to protection for unaccompanied children in Greece*, July 2023, available at: <https://tinyurl.com/y6fb7zh5>, p. 7.

certificate or family status can be submitted, however, these two documents require an apostille stamp,<sup>648</sup> which in practice is not always possible for an asylum seeker to obtain. In practice, however, employees in the RAOs sometimes corrects the age of the person on the basis of documents without apostille. Alternatively, according to the law, the caseworker of the Asylum Service can refer the applicant to the age assessment determination procedure in case that reasonable doubt exists as to his or her age.<sup>649</sup> In this case, referral to the age assessment procedure largely lies at the discretion of the Asylum Service caseworker.<sup>650</sup>

As mentioned above, the number of age assessments conducted within the framework of the asylum procedure in 2023 was not provided by MoMA despite GCR's request.

### 1.3 Special procedural guarantees

#### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?  Yes  For certain categories  No
  - ❖ If for certain categories, specify which:
 

According to Article 1-λγ of the Asylum Code the following groups are considered as vulnerable groups: “children; unaccompanied children; direct relatives of victims of shipwrecks (parents, siblings, children, spouses); disabled persons; elderly; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illness; persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation.”

### 1.4 Adequate support during the interview

According to Article 72 (2) Asylum Code, where applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to be in the position to benefit from the rights and comply with the obligations in the framework of the asylum procedure.

The Asylum Code provides examples of forms of adequate support that can be granted in the procedure. More specifically:<sup>651</sup>

- ❖ The possibility of additional breaks during the personal interview;
- ❖ The possibility for the applicant to move during the interview if his or her health condition so requires; and
- ❖ Leniency to minor inconsistencies and contradictions, to the extent that they relate to the applicant's health condition.

National legislation expressly provides that each caseworker conducting an asylum interview shall be ‘trained in particular as of the special needs of women, children, and victims of violence and torture.’<sup>652</sup>

The law also provides that, when a woman is being interviewed, the interviewer, as well as the interpreter, should also be female where this has been expressly requested by the applicant.<sup>653</sup>

In practice, GCR is aware of cases where the vulnerability or particular circumstances of the applicant have not been taken into account or have not properly been assessed at first or/and second instance.

<sup>648</sup> Decision of the Director of the Asylum Service No 3153, Gov. Gazette B' 310/02.02.2018.

<sup>649</sup> Article 80(3) Asylum Code.

<sup>650</sup> For a detailed description of the problems related with the age assessment on Lesbos Island, see Fenix, *A Child's Best Interests? Rights Violations in the Absence of Presumption of Minority*, 13 October 2022, available at: <https://bit.ly/3ACqq2t>.

<sup>651</sup> Article 67(2) IPA.

<sup>652</sup> Article 82(12)(a) Asylum Code.

<sup>653</sup> Article 82(5) Asylum Code, as well as Administrative Court of Appeal of Athens, Decision 3043/2018, in Farmakidis-Markou Konstantinos, *Refugee Law*, Nomiki Bibliothiki, 2021, in greek, in which the court found that an applicant who has not requested an interpreter of the same gender for the interview cannot rely on this provision at a later stage.

According to GCR's observations, inadequate interview conditions continued to be reported in the premises of RAO and AAUs in 2023. Notably, registrations and interviews were conducted without consideration of potential vulnerabilities and relevant needs. Certain interviews and registrations took place simultaneously in different spaces within the same container, which does not provide proper sound insulation and is not in line with the principle of confidentiality.

The Appeals Committees further contribute to the non-implementation of special procedural guarantees through a strict interpretation of Article 72 Asylum Code. Several Committees have ruled that the onus is on the asylum seeker to establish exactly what evidence he or she would have been able to submit in his/her specific case if procedural guarantees had been provided during the procedure.<sup>654</sup>

According to a decision of the 10<sup>th</sup> Committee of the Appeals Authority dated 13 November 2023 regarding the second instance examination of the asylum case of a vulnerable person from Siera Leone, the vulnerability of the applicant *“was not assessed, since on the day of his registration he was subjected to an extremely superficial, non-thorough and faulty medical examination [...] Therefore [...] at the time of his oral interview, the procedures of first reception had not even been initiated, let alone completed, and specifically his assessment as vulnerable by the competent EODY psychosocial unit. Thus, an essential type (of the procedure) was violated, as the assessment and recognition of vulnerability constitutes a special procedural guarantee in favor of the asylum seeker and a special procedural obligation of the Administration, the violation of which affects the validity of the examination of the application for international protection, making it ineffective and non-specialized [...] In view of these, the Committee judges necessary to postpone the issuance of its final judgment so that the applicant can undergo at his own initiative medical examinations and present medical certificates on his state of health during the new scheduled discussion of the case [...]”*.<sup>655</sup>

All decisions rejecting minors' claims have troubling similarities. Procedural deficits (absence of a guardian, of appropriate legal representation and legal aid during the process), as well as substantial deficits regarding the determination of refugee status (lack of any reference to the Best Interest of the Child or lack of assessment thereof, obvious lack of knowledge regarding forms of child persecution in general and in countries of origin in particular or the lack of a proper assessment of a minor's credibility), make it almost impossible for unaccompanied minors undergoing the procedure themselves to qualify for international protection. The number of decisions granting refugee status or subsidiary protection to unaccompanied children and the number of in-merit rejection decisions issued throughout 2023 is not available. What is available is only the number of 1<sup>st</sup> instance decisions granting refugee status and subsidiary protection to UAMs, which amounted to a total of 1,163 (1,133 decisions granting refugee status & 30 decisions granting subsidiary protection).<sup>656</sup>

## 1.5 Exemption from special procedures

The Asylum Code does not provide for the exemption of vulnerable persons from special procedures as a rule (see [Identification](#)).<sup>657</sup> Applicants in need of special procedural guarantees are only exempted from the [Accelerated Procedure](#), the [Border Procedure](#), and the [Fast-Track Border Procedure](#) where adequate support cannot be provided (see above).<sup>658</sup>

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<sup>654</sup> 6<sup>th</sup> Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4; 12<sup>th</sup> Appeals Committee, Decision 233902/2021, 9 September 2021, p. 3.

<sup>655</sup> Decision IP/268799/2023/13.11.2023 of the 10th Committee of the Appeals Authority on a case legally supported in 2<sup>nd</sup> instance by the Registry of Lawyers of the Asylum Service in GCR/HIAS/RSA, *Δελτίο Νομολογίας Ασύλου 2/2203*, December 2023, pp. 25-26, available in Greek at: <https://bit.ly/3JuO7y7>.

<sup>656</sup> MomA, *Information Note A, December 2023, Reception, Asylum & Integration Procedures*, p. 8, available in Greek at: <https://tinyurl.com/59d5hubb>.

<sup>657</sup> Article 41 (d) Asylum Code provides that the determination of an applicant as vulnerable has the sole effect of triggering immediate care of particular reception, and Article 77 (3) Asylum Code adds 'the provision of special procedural guarantees'.

<sup>658</sup> Article 72(3) Asylum Code. This provision clarifies that, where the applicant falls within the cases where appeals have no automatic suspensive effect, he or she must have access to interpretation services, legal assistance and at least one week to prepare the appeal (see also [Border Procedure](#) and [Fast-Track Border Procedure](#)).

Appeals Committees have continued to dismiss alleged infringements of Article 72(3) Asylum Code stemming from the failure of the Asylum Service to exempt the applicant from the fast-track border procedure, on the ground that the appellant has not demonstrated procedural damage (*δικονομική βλάβη*). The position of the Appeals Committees remains incompatible with the case law of administrative courts, according to which failure to refer such cases to the regular procedure unlawfully circumvents the special protection afforded by law to vulnerable groups.

Illustrative of the above is a decision issued by the Supreme Administrative Court of Pireus (decision A65/2023) in the case of a vulnerable woman from Iraq, whose decision recognizing her vulnerability and referring her to the normal procedure was not taken into consideration by the Asylum authorities, even if it was issued before the issuance of 1<sup>st</sup> instance decision rejecting her asylum application. According to the Court: *“the legislator establishes special treatment for applicants for international protection, who are proven to belong to the category of vulnerable persons. [...] the applicant's application for international protection was referred to the normal procedure, as it was judged that she [...] suffers from a mental illness. Both the Regional Asylum Office of Lesbos, which examined in first instance her application for the granting of international protection, issuing its decision [...] after the issuance of the above decision, as well as the Independent Appeals Authority that examined her appeal, should have refrained from issuing a decision and refer the case back to the competent authorities, in order to re-examine the asylum request, based on the guarantees of the normal procedure (longer deadline, possible search for legal assistance), after conducting a new interview of the applicant by an employee of the Asylum Service specialized in vulnerability issues [...]”*<sup>659</sup>.

Unaccompanied children below the age of 15, as well as unaccompanied children who are victims of trafficking, torture, rape, or other forms of serious psychological, physical and sexual violence, are always processed under the regular procedure.<sup>660</sup> For those aged 15 or over who are not victims of trafficking, torture or violence, exemption from special procedures depends on the individual grounds applied by the authorities in each case:<sup>661</sup>

Exemption of unaccompanied children aged 15 or over from special procedures			
Accelerated procedure		Border and fast-track border procedures	
Ground		Ground	
Claim unrelated to protection	✓	Protection in another Member State	✓
Safe country of origin	✗	First country of asylum	✓
False information or documents	✓	Safe third country	✗
Destruction or disposal of documents	✓	Subsequent application	✗
Clearly unconvincing application	✓	Application by dependant	✓
Subsequent application	✗	Claim unrelated to the protection	✓
Application to frustrate return proceedings	✓	Safe country of origin	✗
Application not as soon as possible	✓	False information or documents	✗
Refusal to be fingerprinted under Eurodac	✓	Destruction or disposal of documents	✗
Threat to public order or national security	✗	Clearly unconvincing claim	✓
Refusal to be fingerprinted under national law	✓	Application to frustrate return proceedings	✓
Vulnerable person	✓	Application not as soon as possible	✓
		Refusal to be fingerprinted under Eurodac	✓
		Threat to public order or national security	✗
		Refusal to be fingerprinted under national law	✓
		Vulnerable person	✓

<sup>659</sup> Decision A65/2023 of the Supreme Administrative Court of Pireus in GCR/HIAS/RSA, *Δελτίο Νομολογίας Ασύλου 1/2023*, June 2023, pp. 26-27, available at: <https://bit.ly/4bbuWWd>. The case was legally supported by GCR.

<sup>660</sup> Article 80(7) of the Asylum Code.

<sup>661</sup> Articles 88(10) and 95(4) of the Asylum Code.

As far as the **Safe Third Country** concept is concerned, the law specifies that unaccompanied children may only be subject to the border and fast-track border procedure if it complies with their best interests.<sup>662</sup>

Pressure on the Greek authorities to abolish the exemptions of vulnerable applicants from the fast-track border procedure and to “reduce the number of asylum seekers identified as vulnerable”, for the sake of the implementation of the EU-Türkiye statement and the increase of returns to Türkiye, has already been reported since late 2016.<sup>663</sup> However, as underlined by FENIX “[...] serious deficiencies in the determination of asylum applicants’ vulnerabilities have been systematically observed in recent years in Greece, [...] Asylum applicants often are rushed through several different phases of the asylum process before the medical and/or psychosocial examinations are completed. Frequently, asylum interviews are conducted even while the medical assessment remains pending”.<sup>664</sup>

Within this framework, L 4540/2018, transposing the recast Reception Conditions Directive, has omitted persons suffering from PTSD from the list of vulnerable applicants.<sup>665</sup> The same omission was made in the subsequent adoption of both the IPA and the Asylum Code.

## 1.6 Prioritisation

Although Article 39(5)(d) IPA provided that applications of persons belonging to vulnerable groups were examined “under absolute priority”,<sup>666</sup>, this provision was abolished by L. 4686/2020.<sup>667</sup>

## 2. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant’s statements regarding past persecution or serious harm?  Yes  In some cases  No
2. Are medical reports taken into account when assessing the credibility of the applicant’s statements?  Yes  No

If the applicant consents to it, the law provides for the possibility for the competent authorities to refer him or her for a medical and/or psychosocial diagnosis where there are signs or claims which might indicate past persecution or serious harm. These examinations shall be free of charge and shall be conducted by specialised scientific personnel of the respective specialisation and their results shall be submitted to the competent authorities as soon as possible. Otherwise, the applicants concerned must be informed that they can undergo such examinations at their own initiative and expense. The results and reports of these examinations have to be taken into consideration by the Asylum Service, in order for the deciding authorities to establish if the applicant’s allegations of persecution or serious harm are likely to be well-founded”.<sup>668</sup>

Specifically, a contested provision was introduced in 2018, as per which individuals who have been subjected to torture, rape, or other serious acts of violence should be certified as such by a public hospital

<sup>662</sup> Article 95(4)(d) of the Asylum Code.

<sup>663</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Türkiye Statement*, Annex 1 to COM(2016) 792, 8 December 2016, paras 2 and 3, available at: <https://bit.ly/44e019t>; Human Rights Watch, *EU/Greece: Pressure to minimise numbers of migrants identified as vulnerable*, 1 June 2017, available at: <https://bit.ly/3RqQM0F>; AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, p. 17, available at: <https://bit.ly/424yGDH>.

<sup>664</sup> FENIX – Humanitarian Legal Aid, *Unrecognised Vulnerability- Greece’s systematic failure to identify and certify Victims of Torture*, p. 12, available at: <https://tinyurl.com/mwpxajcv>.

<sup>665</sup> Article 20(1) L. 4540/2018, which was later abolished by article 119 (2) of L 4636/2019 See currently in force article 1 (lc) regarding the definition of vulnerable persons, where persons suffering from PTSD are not included.

<sup>666</sup> Article 39(5)(d) L.4636/2019.

<sup>667</sup> Article 2(3) L. 4686/2020.

<sup>668</sup> Article 53 L 4375/2016, which was later abolished by article 119 (1) of L 4636/2019 and currently in force Article 77 of the Asylum Code.



or by an adequately trained doctor of a public sector health care provider and obtain a certificate so attesting.<sup>669</sup> The provision has been maintained by the IPA<sup>670</sup> and the Asylum Code.<sup>671</sup>

The main critiques against this provision are that doctors in public hospitals and health care providers are not adequately trained to identify possible victims of torture and that the law foresees solely a medical procedure. According to the Istanbul Protocol, a multidisciplinary approach is required – a team of a doctor, a psychologist, and a lawyer – for the identification of victims of torture. Moreover, stakeholders have expressed fears that certificates from entities other than public hospitals and public health care providers would not be admissible in the asylum procedure and judicial review before courts.

According to decision 147/2022 of the First Instance Administrative Court of Thessaloniki in the case of a vulnerable person from Siera Leone whose medical documents issued by public entities and his certification of victim of torture issued by Metadrasi NGO were not taken into consideration neither during first nor during the second instance examination of his asylum application, states the following: “*the contested decision which rejected applicant’s claims as unreliable, without taking into consideration the documents presented and without inviting the applicant to a prior hearing, is not legally and sufficiently justified and must be cancelled [...]. subsequently, the request for annulment must be accepted, the contested decision must be annulled, and the case must be referred back to the competent Committee, so that the above mentioned [...] documents be considered [...] and the applicant be invited in person*”.<sup>672</sup>

As reported by several civil society organisations,<sup>673</sup>

*“certain categories such as victims of torture are systematically not identified as such, where certification does not take place. Certification of victims of torture is impossible in the country in practice, given that public health authorities do not have the processes and capacity in place to carry out certification. The authors have contacted public health institutions on the islands on various occasions to inquire whether they certify victims of torture in accordance with the Istanbul Protocol, victims of rape of other serious form of violence, as well as whether hospital staff are appropriately trained for such a certification and whether the victims are able to receive the necessary care for their rehabilitation.”*

According to a report of FENIX – Humanitarian Legal Aid entitled *Unrecognised Vulnerability- Greece’s systematic failure to identify and certify Victims of Torture* of April 2023: “*Despite national law, the certification of VoTs systematically does not occur. Article 67(1) of Law 4939/2022 imposes that only public authorities are competent to provide certification. This is a restriction to Article 25 of the Reception Conditions Directive, which only specifies that the competent authorities have ‘appropriate training’. This is an unnecessary restriction of the competent authorities which provide certification and a violation of Article 4 of the Reception Condition Directive. The restriction creates further barriers to the identification and certification of VoTs, especially considering that no public authority in Greece currently has qualified personnel or is competent for this type of certification of VoTs. [...] The gap in the identification and certification of VoT is not only verified on the islands of Lesvos; it is also verified on the mainland, including in Athens. The Forensic Service of Athens and several public hospitals systematically reply to requests submitted by Fenix legal representatives that they cannot proceed with the identification and certification of VoTs according to the Istanbul Protocol due to a lack of specialised training and knowledge [...] there is no public authority with qualified professionals willing to assume the required competence to proceed with the certification process of VoTs*”.<sup>674</sup>

<sup>669</sup> Immigration.gr, *Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους*; May 2018, available in Greek at: <https://tinyurl.com/3ne4vn42>.

<sup>670</sup> Article 61(1) IPA.

<sup>671</sup> Article 67 Asylum Code.

<sup>672</sup> Decision 147/2022 of 1<sup>st</sup> Instance Administrative Court of Thessaloniki – case supported by lawyer Athina Kalogridi in ARSIS – Association for the Social Support of Youth, Seeking International Protection: A Case-Law Handbook, 2022-2023, pp. 49-53, available at: <https://tinyurl.com/384xn8xm>.

<sup>673</sup> RSA, HIAS, GCR, Legal Center Lesvos, DRC, Fenix, ActionAid, Mobile Info Team, *The Workings of the Screening Regulation. Juxtaposing proposed EU rules with the Greek reception and identification procedure*, January 2021, p. 16, available at: <https://bit.ly/3fL8xFF>.

<sup>674</sup> FENIX – Humanitarian Legal Aid, *Unrecognised Vulnerability- Greece’s systematic failure to identify and certify Victims of Torture*, pp. 17-19, available at: <https://tinyurl.com/mwpxajcv>.

In Decision 593/2023, the First Instance Administrative Court of Thessaloniki cancelled a second instance asylum decision rejecting the asylum claim of a family from Iraq, among other reasons, because the Asylum Service violated an essential step of the examination of an asylum application. In particular, despite one of the applicants' claim of being a victim of torture, the Asylum Service neither referred the applicants to the competent authorities for medical examination, nor did the Asylum Service inform the applicant about the possibility to undergo such examination on his own initiative/expense. In particular, the Court stated that: "*during his interview the applicant made specific allegations about torture he suffered in the past. However, nothing in the file indicated that he was informed of his possibility to be examined, on his own initiative and at his own expense, by a legally competent medical service, for the examination [...] of the existence of symptoms and signs of torture, nor was he competently referred at any stage of the procedure, for relevant consideration. [...] thus [...] the decision should be cancelled and referred back to the Administration, in order to comply with the type of the procedure [...]*".<sup>675</sup>

### 3. Legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?  
 Yes  No

Under Greek law, any authority detecting the entry of an unaccompanied or separated child into the Greek territory shall take the appropriate measures to inform the closest Public Prosecutor's office and the General Secretariat for Vulnerable Persons and Institutional Protection.<sup>676</sup>

On 22 July 2022, L 4960/2022 on the National Guardianship System and Framework of Accommodation of UAMs<sup>677</sup> entered into force, replacing former law L 4554/2018 on guardianship, which was never implemented in practice. New provisions on guardianship and accommodation were inserted in the third part of the Asylum Code regarding Reception (provisions on guardianship were incorporated in Chapter C / Part 3 in Articles 66A-66KΔ and provisions on accommodation in Chapter D / Part 3 in Articles 66KE-66ΛΔ). Under the new legislative provisions on guardianship, general competency was transferred from the National Centre for Social Solidarity of the Ministry of Labour and Social Affairs to the Special Secretary for the Protection of Unaccompanied Minors (SSPUAM) now General Secretariat for Vulnerable Persons and Institutional Protection.

Under the new law, the provision of guardianship is relegated to a list of legal entities appointed by the Public Prosecutor (*i.e.*, public entities, NGOs, international organisations) who collaborate with persons acting as guardianship mandated persons (henceforth referred to as "guardians"). The Public Prosecutor can also appoint a child's family member or friend to be responsible for their everyday care.

In late autumn 2023 (end of October) METAdrasi and Praksis NGOs were announced by the Ministry of Migration and Asylum as the finalist candidates entrusted with the implementation of the National Guardianship scheme, following a public procurement procedure. The project officially began on 1<sup>st</sup> November 2023 and, according to its design, the first two months would consist of preparatory actions (trainings, prioritisation of cases etc.).

The project's implementation involves a phased approach to recruit guardianship mandated persons over three stages and now, at this first stage, 60 guardians for UASCs are placed at Greece's main entry points (the 5 Aegean islands and Evros area) and/or to other reception facilities under pressure (*e.g.*, in Serres, northern Greece). At the time of writing (February 2024) guardians are now deployed and started work, supporting unaccompanied children on the move with a focus on separated children, vulnerable children

<sup>675</sup> Decision 593/2023 of First Instance Administrative Court of Thessaloniki – case supported by ARSIS lawyer Anthi Argyriou in *op. cit.*, ARSIS – Association for the Social Support of Youth, Seeking International Protection: A Case-Law Handbook, 2022-2023, pp. 91-94.

<sup>676</sup> Article 64(1) of the Asylum Code as amended by article 4 L.4960/2022.

<sup>677</sup> L 4960/2022 *National Guardianship System and Framework of Accommodation of UAMs and other provisions under the jurisdiction of the MoMA.*

with medical issues, children below the age of 14 and girls, regardless their age.<sup>678</sup> The next group of guardians is expected to start in the beginning of March 2024, covering more of the identified needs.

Assigning the additional task of guardianship to prosecutors has proved to be particularly disastrous over the years, especially given the number of prosecutors and their workload as prosecuting authorities.<sup>679</sup> Therefore, this development is positive, but it also needs to be sustainable. The General Secretariat for Vulnerable Persons and Institutional Protection has replied to GCR that funding for this project is secured until the end of 2023, but it's in the Secretariat's aspirations that funding is not going to be a problem for the project's sustainability.<sup>680</sup>

The total number of applications for international protection lodged by unaccompanied minors before the Asylum Service in 2023 is 2,937 (of which 42 are subsequent), while only 1,163 unaccompanied children received positive decisions during the same period.<sup>681</sup> As some decisions spill over from previous years and the number of negative decisions is not publicly available, nor was this number shared by the Greek authorities despite GCR's request one cannot estimate the actual scale of the issue.

In early April 2021, the Ministry of Migration and Asylum and UNHCR, in collaboration with IOM and the NGOs Arsis, METAdrasi and the Network for Children's Rights, launched a mechanism to rapidly identify unaccompanied children who are homeless or live in insecure conditions and transfer them to safe accommodation. The National Emergency Response Mechanism (NERM), which remains operational to this day, includes a 24/7 telephone hotline (multiple languages available) for identifying and tracing children in need,<sup>682</sup> and Info Desks / Mobile Units in Athens and Thessaloniki, together with emergency accommodation facilities. NERM is considered an integral part of UASCs protection in Greece,<sup>683</sup> and the General Secretariat plans to expand its scope to cover vulnerable persons who are homeless or at risk.<sup>684</sup>

According to GCR's observations, the new mechanism is very responsive to requests addressed both by NGO's and by UAMs themselves. According to the General Secretariat for Vulnerable Persons and Institutional Protection since the beginning of NERMs operation in 2021 until 27 November 2023, the number of unaccompanied children who have been accommodated by NERM is 4,292 and a total of 586 unaccompanied/separated children from Ukraine have received support by the Mechanism from March 2022 until 27 November 2023.<sup>685</sup> According to the same source, the Secretariat plans to expand NERM's competence beyond UASCs, offering also support to vulnerable persons who are homeless or at risk.

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<sup>678</sup> UNHCR, *Child Protection Working Group meeting documents*, December 2023, available at: <https://tinyurl.com/byhyuhwk>.

<sup>679</sup> Rosa Luxemburg Foundation, *Children Cast Adrift: The Exclusion and exploitation of unaccompanied minors (UAMs)*, November 2019, available at: <https://tinyurl.com/yckvetdf>.

<sup>680</sup> Answer received orally at the UNHCR Child Protection North 29 Jan 2024 meeting.

<sup>681</sup> See MoMA's consolidated report for 2023, APPENDIX A, available at: <https://tinyurl.com/bdh5zyba>, p. 7 and 15.

<sup>682</sup> Ministry of Migration and Asylum, *Σε λειτουργία ο εθνικός μηχανισμός για τον εντοπισμό και την προστασία ασυνόδευτων παιδιών σε επισφαλείς συνθήκες*, 6 April 2021, available in Greek at: <https://tinyurl.com/56y82a7e>.

<sup>683</sup> Ministry of Migration and Asylum, Special Secretariat for the Protection of UAMs, *National Emergency Response Mechanism. A safety net for unaccompanied children identified in precarious living conditions*, November 2022, available at: <https://tinyurl.com/mwwnjr3z>.

<sup>684</sup> see Ministry of Migration and Asylum, General Secretariat for Vulnerable Persons and Institutional protection, *presentation at the UNHCR Child Protection Working Group*, December 2023, available at: <https://tinyurl.com/u33d6ekm>.

<sup>685</sup> UNHCR, *Child Protection Working Group meeting documents*, December 2023, available at: <https://tinyurl.com/u33d6ekm>.

## E. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications?  Yes  No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No  In some cases
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No

A “subsequent application” is an application for international protection submitted after a final decision has been taken on a previous application for international protection, including cases where the applicant has explicitly withdrawn his/her application and cases where the determining authority has rejected the application following its implicit withdrawal.<sup>686</sup>

The definition of “final decision” was amended in 2018. According to the new definition, as maintained in the Asylum Code, a “final decision” is a decision granting or refusing international protection: (a) taken by the Appeals Committees following an appeal, or (b) which is no longer amenable by the aforementioned appeal due to the expiry of the time limit to appeal.<sup>687</sup> An application for annulment can be lodged against the final decision before the Administrative Court.<sup>688</sup>

The law sets out no time limit for lodging a subsequent application.<sup>689</sup> Subsequent applications are lodged before Regional Asylum Offices (RAO) across the country following appointment given upon pre-registration on the Ministry of Migration and Asylum’s electronic platform.<sup>690</sup>

On this point, it needs to be noted that between May and August 2023, the MoMA’s specific platform was not operating, thus making access to the procedure impossible in practice.<sup>691</sup>

A subsequent application can also be lodged by a member of a family who had previously lodged an application. In this case, the preliminary examination concerns the potential existence of evidence that justifies the submission of a separate application by the dependent person. Exceptionally, an interview is held for this purpose.<sup>692</sup>

As per data published by the MoMA,<sup>693</sup> a total of 6,321 subsequent asylum applications –38 of which concerning UAM– were registered by the Asylum Service in 2023. This amounts to close to 10% of total applications registered by the GAS during the year (64,212, of which 57,891 were first time asylum applications),<sup>694</sup> and marks a close to 24% reduction in subsequent asylum applications compared to the previous year (8,265 in 2022).<sup>695</sup>

That being said, the aforementioned data does not include information on the type (i.e., first, second or further) of subsequent asylum application registered by the GAS, thus making it impossible to assess the

<sup>686</sup> Article 1(κδ) of Asylum Code.

<sup>687</sup> Article 1(κδ) of Asylum Code.

<sup>688</sup> Article 114 (1) of Asylum Code.

<sup>689</sup> Article 94 of Asylum Code.

<sup>690</sup> The relevant platform can be accessed at: <https://bit.ly/3Jyqp44>.

<sup>691</sup> As per information shared during the 27 September 2023 National Protection Working Group, which is organised and chaired by UNHCR, and currently co-chaired by GCR. Also see GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe concerning the groups of cases of M.S.S. v. Greece (Application No. 30696/09) and Rahimi v. Greece (8687/08)*, July 2023, available at: <https://tinyurl.com/4xu8c7r8>, 6.

<sup>692</sup> Article 94(5) of Asylum Code.

<sup>693</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, tables 8c and 8f.

<sup>694</sup> *Ibid.*

<sup>695</sup> AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>, 121.

extent to which article 94(10) Asylum Code, requiring the submission of a € 100 fee for the registration of each second or further subsequent application, was triggered throughout the year (see below: Second and every following subsequent application).

Information on the main nationalities of those that submitted subsequent asylum applications during the year is also not included in the specific publications, nor was it provided following GCR's relevant request (sent on 31 January 2024), with the MoMA's reply (dated 14 February 2024) instead referencing the aforementioned publicly available data, which despite some improvements, is still lacking. The same applies to information regarding the total number of subsequent applications that were considered admissible and referred to be examined on the merits.

During 2023, a total of 4,257 subsequent applications were dismissed as inadmissible at first instance and 2,131 were dismissed as inadmissible at second instance.<sup>696</sup>

### **Preliminary examination procedure**

When a subsequent application is lodged, the competent authorities examine the application in conjunction with the information provided in previous applications.<sup>697</sup>

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or have been presented by the applicant that could not be invoked by the applicant through no fault of their own during the examination of their previous application for international protection or appeal. The preliminary examination of subsequent applications is conducted within five days from their lodging to assess whether new substantial elements have arisen or been submitted by the applicant.<sup>698</sup> The examination takes place within two days if the applicant's right to remain on the territory has been withdrawn.<sup>699</sup> During this preliminary stage, all information is provided by the applicant in writing.<sup>700</sup>

Given the purpose of the procedure, elements or claims related either to the applicant's personal circumstances or to the situation in the applicant's country of origin that did not exist during the examination of his/her previous application should be considered new in light of the first asylum procedure. Elements previously available to the applicant or claims that could have been submitted during the first asylum procedure should be considered new when the applicant provides valid reasoning for not presenting them at that stage. Furthermore, such new elements should be considered to be substantial if they lead to the conclusion that the application is not manifestly unfounded, that is to say, if the applicant does not invoke claims clearly not related to the criteria for refugee status or subsidiary protection.

In line with the above, the First Instance Administrative Court of Athens noted in its 54/2023 Decision that "in the present case, after the issuance of the... decision of the 12th Independent Appeals Committee... the aforementioned medical and psychosocial vulnerability assessment report of the doctor... was drawn up in 2018, according to which she falls under the certified cases of vulnerability of Law 4375/2016, as a victim of sexual and gender-based violence, as well as violent behaviour in general, and she needs better living conditions and psychological support, as she presents sleep and feeding disorders, intense anxiety and flashbacks, exposure to extreme psychotraumatic events. Subsequently, the act of ...2018 was issued by Moria Reception and Identification Centre of Lesbos RAO regarding the referral of the applicant's application for international protection to the normal procedure.... Based on these data, the aforementioned vulnerability recognition documents of the applicant, which are included in the elements of the administrative file and support the relevant allegations... presented in the above subsequent application for international protection, constitute, first of all, new critical elements, the invocation of which was not objectively possible at an earlier point of time, since they arose after the issuance of the decision

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<sup>696</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>, tables 9a and 9b.

<sup>697</sup> Article 94 (1) of Asylum Code.

<sup>698</sup> Article 94 (2) of Asylum Code.

<sup>699</sup> Articles 94(2) and 94 (9) of Asylum Code.

<sup>700</sup> Article 94 (2) of Asylum Code.

on the initial application for international protection... Following these, the subsequent application for international protection of the applicant was rejected illegally ...”.

The 10<sup>th</sup> Appeals Committee noted in its 65554/2023 Decision that “because, from the comparison of the reasons raised with the applicant’s applications for international protection in ...2020 and ...2022, it appears that the reason cited in his application in ...2022 regarding the fact that in his country he will not be able to receive appropriate medical treatment for the mental illness from which he suffers in conjunction with the submitted medical opinions and medication prescriptions, which were issued after the ... decision of the 9th Independent Appeals Committee (by which was rejected at second instance his application of ...2020), is a new and substantial element, able to restart the examination procedure of his request. Following these, the applicant’s application for international protection of ...2022 is deemed admissible.”

In its 174800/2023 Decision, the RAO Crete noted that “In conclusion, when evaluating and comparing what the applicant initially stated and what she stated in the subsequent application, in combination with the information on the applicant’s country of origin, it appears that the information cited in the subsequent application is new, as not only the phone numbers of the applicant’s relatives are being monitored so she cannot contact them, but also human rights violations of those who oppose the government have been systematically intensified.”

In its 83587/2023 Decision, the RAO Thessaloniki noted that “*The applicant claims in his subsequent application that Türkiye is not safe for him because after the rejection of his first application by the Greek authorities he returned to Turkey and was imprisoned by the Turkish army with the intention of deporting him. From the comparative examination of the applicant’s earlier and later application and from his relevant statements before the competent examination authorities regarding the reasons why he does not wish to return to Turkey, it emerges that the reasons presented are new and substantial elements as they relate to events that arose after the... decision of the Appeals Authority. With regard to the condition of the law as to whether these elements are substantial, the Service considers that these elements are substantial, taking into account the personal circumstances of the applicant, i.e. his vulnerability that arose in Greece (possible victim of trafficking) because they significantly increase the possibility that Türkiye is not considered safe in view of the applicant’s situation.*”

Above positive decisions issued during 2023 are selected indicatively among cases represented by GCR and published in the Greek Asylum Case Law Report.<sup>701</sup>

If the preliminary examination concludes on the existence of new elements “which affect the assessment of the application for international protection”, the subsequent application is considered admissible and examined on the merits and the applicant is issued a new “asylum seeker’s card”. If no such elements are identified, the subsequent application is deemed inadmissible.<sup>702</sup>

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal of applicants who have lodged a subsequent asylum application are suspended.<sup>703</sup> However, as mentioned, applicants do not receive an asylum seeker’s card until the conclusion of this preliminary stage, and subject to the application being deemed admissible. In the meantime, therefore, applicants have no access to the rights attached to the asylum seeker status or protection.

Exceptionally, under the Asylum Code, ‘the right to remain on the territory is not guaranteed to applicants who

- (a) make a first subsequent application which is deemed inadmissible, solely to delay or frustrate removal, or
- (b) make a second subsequent application after a final decision dismissing or rejecting the first subsequent application’.<sup>704</sup>

<sup>701</sup> The report is prepared and updated by the NGOs GCR, RSA and HIAS Greece, available in Greece at <https://bit.ly/44jLjO3>.

<sup>702</sup> Article 94(4) of Asylum Code.

<sup>703</sup> Article 94(9) of Asylum Code.

<sup>704</sup> Article 94(9) of Asylum Code.

Any new submission of an identical subsequent application is dismissed as inadmissible.<sup>705</sup>

An appeal against the decision rejecting a subsequent application as inadmissible can be lodged before the Independent Appeals Committees under the Appeals Authority within 5 days of its notification to the applicant.<sup>706</sup>

### **Second and every following subsequent application**

Since September 2021, following relevant amendments to the IPA,<sup>707</sup> each subsequent application after the first one is subject to a fee amounting to €100 per application, with the relevant provision being maintained under article 94(10) Asylum Code. This amount may be revised through a Joint Ministerial decision.

A Joint Ministerial Decision of the Ministers of Migration and Asylum and of Finance, which is in force since 1 January 2022, determined various issues concerning the implementation of the statutory provision (definitions, payment procedure, reimbursement of unduly paid fees etc.).<sup>708</sup> The same Ministerial Decision foresees that if the application is submitted on behalf of several members of the applicant's family, the same fee is paid separately for each applicant, including minor children.<sup>709</sup> Illustratively, a five-member family composed of two parents and three minor children has to pay a fee of €500, to be able to submit a second or further subsequent application.

National human rights bodies, including the Greek Ombudsman and civil society organisations repeatedly called on the Minister of Migration and Asylum to abolish the aforementioned legislative regulation.

As noted by the Greek Ombudsman,<sup>710</sup> *“linking the deposit of a fee with the submission of a subsequent application for international protection undermines exercise of the right to asylum, as enshrined in article 18 of the EU Charter of Fundamental Rights. A fee, and indeed one amounting to €100 [...], constitutes the submission of a subsequent application almost prohibitive for a population that is in a vulnerable financial situation, as is the case with asylum applicants and contravenes articles 40-42 of Directive 2013/32/EU”*.

As further noted in a joint statement by 10 civil society organisations, members of the Lesvos Legal Aid Actor sub-Working Group, the provision is also *“in conflict with the provisions of Articles 25(2) and 20(1) of the Greek Constitution, Articles 47 and 52 of the Charter of Fundamental Rights of the EU and relevant case law of the ECtHR regarding the provisions of Articles 3, 8 and 13 of the ECHR, as it effectively makes access to the asylum procedure impossible for those refugees who cannot afford to pay the €100 fee for each person/family member.”*<sup>711</sup>

In the same statement, the organisations further flag the additional concerns arising in relation to applicants for international protection who have had their applications rejected as inadmissible, without ever having been examined on the merits, on account of the persistent application of the “safe third country” concept in the case of Türkiye and the persistent refusal of the Greek authorities to enforce article 38(4) Directive 2013/32/EU (article 91(5) Asylum Code), despite the ongoing lack of any reasonable prospect of readmission to Türkiye for now more than three years. As noted, with said practice impacting

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<sup>705</sup> Article 94(7) of Asylum Code.

<sup>706</sup> Article 97(1d) of Asylum Code.

<sup>707</sup> Article 89(10) IPA, as amended by article by article 23 L.4825/2021, available at: <https://bit.ly/4d7ACSN>.

<sup>708</sup> Joint Ministerial Decision 472687/ 21.12.2021, Gazette 6246/ B/ 27.12.2021 entered into force on 01 January 2022, available at: <https://bit.ly/3JQNj7f>.

<sup>709</sup> Article 1 (2) Joint Ministerial Decision 472687/2021.

<sup>710</sup> Greek Ombudsman, *Comments and observations on the draft law ‘Reform of deportation procedures and returns of third country nationals, attracting investors and digital media nomads, issues of residence permit and procedures for granting international protection and other provisions of the MoMA and Ministry of Citizen Protection*, Document Prot. No 43/30.08.20201, available in Greek at: <https://tinyurl.com/22yp7m4h>, p. 11.

<sup>711</sup> Joint statement by 10 civil society organizations-members of the Legal Aid Working Group of Lesvos, *Imposition of a €100 fee for access to asylum from the 2nd and each further subsequent application to applicants for international protection*, 2 March 2022, available in Greek at: <https://tinyurl.com/n2585h35>.

on Syrian nationals even before the introduction of the JMD designating Türkiye as a “safe third country” for specific nationalities (also see [Safe Third Country](#)), “there are cases of applicants who have not been able to access a safe legal status for [more than] four years, as they are constantly rejected on admissibility. [...] the Administration must invite them to an oral hearing to assess the merits according to Article 91(5) of the Asylum Code and not to force them to apply for international protection for a third time and to pay a fee of €100”.<sup>712</sup>

The Greek Council for Refugees (GCR) and Refugee Support Aegean (RSA) have filed a judicial review petition before the Greek Council of State for the annulment of the aforementioned Joint Ministerial Decision. The date of the hearing was set for June 2022 but was subsequently postponed and is currently scheduled for hearing in May 2024. A further annulment application was also filled by HIAS Greece and two families of individual applicants before the Council of State, yet after several postponements, the hearing is similarly currently pending for May 2024.<sup>713</sup>

The European Commission has also pointed out to the Greek authorities that the unconditional submission of a fee of €100 for the second and further subsequent applications raises issues regarding effective access to the asylum procedure as evidenced by European Commissioner Johansson’s reply of 25 January 2022 to a relevant question submitted under the urgent procedure by the German Green MEP Erik Marquardt.<sup>714</sup>

## F. The safe country concepts

Indicators: Safe Country Concepts		
1. Does national legislation allow for the use of “safe country of origin” concept?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Is there a national list of safe countries of origin?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Is the safe country of origin concept used in practice?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Does national legislation allow for the use of “safe third country” concept?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Is the safe third country concept used in practice?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3. Does national legislation allow for the use of “first country of asylum” concept?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Following the EU-Türkiye Statement of 18 March 2016,<sup>715</sup> the provisions concerning the “first country of asylum” and the “safe third country” concepts were applied for the first time in Greece vis-à-vis Türkiye. Serious concerns about the compatibility of the EU-Türkiye Statement with international and European law, and more precisely the application of the “safe third country” concept, have been raised since the publication of the Statement.<sup>716</sup>

On 28 February 2017, the General Court of the European Union gave an order with regard to an action for annulment brought by two Pakistani nationals and one Afghan national against the EU-Türkiye Statement. The order stated that ‘the EU-Turkey Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.’<sup>717</sup> Therefore, ‘the Court does not have jurisdiction

<sup>712</sup> *Ibid.*

<sup>713</sup> A timeline of the proceeding is available at: <https://tinyurl.com/37ydcrn5>.

<sup>714</sup> European Parliament, Parliamentary question E-005103/2021, 20 January 2022, available at: <https://bit.ly/3M3dGWh>.

<sup>715</sup> European Council, Press Release: *EU-Turkey Statement*, 18 March 2016, available at: <https://bit.ly/3GtKveu>.

<sup>716</sup> See, e.g., Greek National Commission for Human Rights (GNCHR), *Έκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: <https://tinyurl.com/yz7anh2z>; Parliamentary Assembly of the Council of Europe (PACE), Resolution 2109 (2016), *The situation of refugees and migrants under the EU-Türkiye Agreement of 18 March 2016*, available at: <http://bit.ly/2fISxIY>; United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: <http://bit.ly/2rHF7kl>, para 31.

<sup>717</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2IWZPrr>.



to rule on the lawfulness of an international agreement concluded by the Member States.<sup>718</sup> The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.<sup>719</sup>

## 1. Safe country of origin

According to Article 92 Asylum Code, safe countries of origin are:

- (a) Those included in the common list of safe countries of origin by the Council of the EU; and
- (b) Third countries, in addition to those of case (a), which are included in the national list of safe countries of origin and which shall be established and apply for the examination of applications for international protection and published in accordance with Article 92 paragraph 5, issued by a Joint Ministerial Decision by the Ministers of Citizen Protection and Foreign Affairs, following a recommendation of the Director of the Asylum Service.

A country shall be considered as a “safe country of origin” if, on the basis of legislation in force and of its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that persons in these countries do not suffer from persecution, generally and permanently, nor torture, inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.<sup>720</sup>

To designate a country as a “safe country of origin”, the authorities must take into account *inter alia* the extent to which protection is provided against persecution or ill-treatment through:<sup>721</sup>

- ❖ The relevant legal and regulatory provisions of the country and the manner of their application;
- ❖ Compliance with the ECHR, the International Covenant on Civil and Political Rights (ICCPR), namely as regards non-derogable rights as defined in Article 15(2) ECHR, the Convention against Torture and the Convention on the Rights of the Child;
- ❖ Respect of the *non-refoulement* principle in line with the Refugee Convention; and
- ❖ Provision of a system of effective remedies against the violation of these rights.

A country may be designated as a “safe country of origin” for a particular applicant only if, after an individual examination of the application, it is demonstrated that the applicant (a) has the nationality of that country or is a stateless person and was previously a habitual resident in that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her qualification as a beneficiary of international protection.<sup>722</sup> The “safe country of origin” concept is a ground for applying the [Accelerated Procedure](#).

Until the implementation of IPA, there was no national or EU common list of safe countries. Therefore, the rules relating to safe countries of origin in Greek law had not been applied in practice and there had been no reference or interpretation of the abovementioned provisions in decision-making practice. Following a joint Ministerial Decision issued on 31 December 2019,<sup>723</sup> 12 countries were designated as safe countries of origin. These are Albania, Algeria, Armenia, Gambia, Georgia, Ghana, India, Morocco, Senegal, Togo, Tunisia and Ukraine. In January 2021 Bangladesh and Pakistan were included in the aforementioned list.<sup>724</sup> In February 2022, Benin, Egypt and Nepal were also added to the list.<sup>725</sup> The list of safe countries of origin was updated in November 2022 by Joint Ministerial Decision 708368, which removed Ukraine from the list.<sup>726</sup> The latest JMD<sup>727</sup> establishing the list of safe countries of origin was published in December 2023 and includes the countries mentioned in the previous JMD.

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<sup>718</sup> *Ibid.*

<sup>719</sup> CJEU, Cases C-208/17 P, C-209/17 P and C-210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

<sup>720</sup> Article 92(3) of Asylum Code.

<sup>721</sup> Article 92 (4) of Asylum Code.

<sup>722</sup> Article 92 (2) of Asylum Code.

<sup>723</sup> Joint Ministerial Decision No 1302/20.12.2019, Gov. Gazette 4907/B/31.12.2019.

<sup>724</sup> Joint Ministerial Decision No 778/2021, Gov. Gazette 317/B/29-1-2021.

<sup>725</sup> Joint Ministerial Decision No 78391/2022, Gov Gazette 667/B/15-02-2022

<sup>726</sup> Joint Ministerial Decision No 708368/2022, Gov Gazette 6012/B/25.11.2022 available at: <https://bit.ly/4d2bflc>.

<sup>727</sup> Joint Ministerial Decision No 527235/2023, Gov Gazette 6844/B/5.12.2022 available at: <https://bit.ly/4d2bflc>.

Data on the number of asylum applications submitted by citizens of countries considered as safe countries of origin throughout 2023 have since not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority. Yet a closer look at the public sources referred to by the MoMA reveals that the specific data are not available for all the relevant countries with the exception of Pakistan and Egypt. According to Annex A (p.6), 4.077 asylum applications were submitted by Pakistani nationals and 2.498 by Egyptian nationals.<sup>728</sup>

According to Art. 88 (7 f) of the Asylum Code, asylum applications of applicants for international protection coming from "safe countries of origin" are examined under the [Accelerated Procedure](#).

## 2. Safe third country

The "safe third country" concept is a ground for inadmissibility (see [Admissibility Procedure](#)).

According to Article 91 (1) of the Asylum Code, a country shall be considered a "safe third country" for a specific applicant when all the following criteria are **cumulatively** fulfilled:

- (a) The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion;
- (b) The country respects the principle of *non-refoulement*, in accordance with the Refugee Convention;
- (c) The applicant is in no risk of suffering serious harm according to Article 15 of IPA;
- (d) The country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law;
- (e) The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and
- (f) The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it<sup>729</sup>.

The transit of the applicant from a third country may, in combination with specific circumstances, in particular (a) the time of stay there, (b) any contact or objective and subjective possibility of contact with the authorities, for access to work or granting a right of residence, (c) possible, prior to transit, residence such as long-term visits or studies, (d) existence of any, even distant, kinship, (e) existence of social or professional or cultural relations, (f) existence of property, (g) connection with a wider community; (h) knowledge of the language concerned; (i) geographical proximity of the country of origin, be considered as the applicant's connection with the third country, on the basis of which it would be reasonable to move to it.

The Asylum Code provides the possibility for the establishment of a list of safe third countries by way of Joint Ministerial Decision.<sup>730</sup> On 7 June 2021, a Joint Ministerial Decision of the Deputy Minister of Foreign Affairs and the Minister of Migration and Asylum was issued, designating Türkiye as "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and

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<sup>728</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://bit.ly/3TxX9jL>.

<sup>729</sup> In case C-564/18 (LH v Bevándorlási és Menekültügyi Hivatal) of 19 March 2020, the CJEU examined the compatibility of said provision with Article 38(2) of the Recast Asylum Procedures Directive 2013/32/EU and ruled that 'the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country', available at: <https://bit.ly/3w4pWUe>. Moreover, contrary to Article 38(2) of the Directive, national law does not foresee the methodology to be followed by the authorities in order to assess whether a country qualifies as a 'safe third country' for an individual applicant.

<sup>730</sup> Article 91(3) of the Asylum Code.

Somalia, without providing any legal reasoning.<sup>731</sup> The aforementioned Joint Ministerial Decision was amended by a subsequent JMD under Article 86(3) IPA, previously in force, declaring Türkiye a safe third country for said nationalities, again, without providing any legal reasoning.<sup>732</sup> The abovementioned JMD designated Albania as a safe third country for the first time for people entering Greece from the Albanian-Greek borders, and North Macedonia as a safe third country for people entering the Greek territory from the borders between North Macedonia and Greece.<sup>733</sup> Subsequently, on 12 December 2022, a new JMD<sup>734</sup> was issued pursuant to which JMD 42799/03.06.2021<sup>735</sup>, as amended by the JMD 458568/15.12.2021, upon review of the existing information (domestic legislative status of the third country, bilateral or multilateral inter-governmental agreements or agreements of the third country with the European Union, as well as internal practice),<sup>736</sup> remains in force. The latest JMD establishing the list of safe third countries was published in December 2023 and includes the countries mentioned in the previous JMD.<sup>737</sup>

It must be stressed that these JMDs provide no reasoning as to why and on the basis of which information Türkiye was designated as a safe third country for the five nationalities. Instead, they refer to “Opinions” of the Head of the Asylum Service, which have not been made public, in contravention of Articles 12(1)(d) and 38(2)(c) of the Asylum Procedures Directive and Articles 86(3) IPA, previously in force and 91(3) of the Asylum Code. According to Article 91(3) of the Asylum Code, the information (domestic legislative status of the third country, bilateral or multilateral inter-governmental agreements or agreements of the third country with the European Union, as well as internal practice)” taken into account for the adoption of a JMD designating a country as a “safe third country”, must be “up to date and come from credible sources of information, in particular from official domestic and foreign diplomatic sources, EASO, the legislation of the other Member States in relation to the concept of safe third countries, the Council of Europe, and UNHCR. The European Commission shall be informed of any decision designating a country as a safe third country.

The European Commission has expressly stated that:<sup>738</sup>

‘Article 12(1)(d) of Directive 2013/32/EU provides that such information, when taken into account by the deciding authority, should also be accessible to the applicant and his/her legal advisers. To the extent Opinion 8815/14.05.2021 of the Director of the Asylum Service contains information referred to in Article 10(3)(b) of Directive 2013/32/EU, and the deciding authority takes the opinion into account for the purpose of taking a decision on an application for international protection, it should be made accessible to the applicant and his/her legal advisers’.

Contrary to Article 91(3) of the Asylum Code, the Opinion was simply a compilation of sources of information about Türkiye and contains no legal reasoning as to why this information leads to the conclusion that Türkiye is a safe third country for asylum seekers from the five countries concerned. In fact, the sources mentioned in the “Opinion” seem to rather substantiate the opposite conclusion. Finally, it should be mentioned that the “Opinion” has still not been published by the authorities nor is it included as part of the applicants’ file in the inadmissibility decisions.<sup>739</sup>

As a result, since the entry into force of the JMDs, the applications lodged by those nationals of these countries can be rejected as “inadmissible” without their applications being examined on their merits.

Prior to any analysis of the statistics, it must be noted that “[full and transparent publication of asylum statistics has been a core demand of MPs and civil society in Greece from the re-establishment of the

<sup>731</sup> JMD 42799/03.06.2021, Gov. Gazette 2425/B/7-6-2021, available in Greek at: <https://bit.ly/4aGni5U>.

<sup>732</sup> JMD 458568/15.12.2021, Gov. Gazette 5949/B/16.12.2021, available in Greek at: <https://bit.ly/4aGnnGK>.

<sup>733</sup> *Ibid.*

<sup>734</sup> JMD 734214/06.12.2022 (Gov. Gazette 6250/B/12-12-2022), available in Greek at: <https://bit.ly/427H9GU>.

<sup>735</sup> JMD 42799/03.06.2021 (Gov. Gazette 2425/B/7-6-2021, as above).

<sup>736</sup> JMD 458568/15.12.2021, Gov. Gazette 5949/B/16.12.2021, as above.

<sup>737</sup> JMD 538595/12.12.2023 (Gov. Gazette 7063/B/15-12-2023) available at: <https://bit.ly/4b8PcHK>.

<sup>738</sup> European Commission, *Reply to parliamentary question E-3532/2021*, 4 October 2021, available at: <https://bit.ly/3NimFGj>.

<sup>739</sup> Equal Rights Beyond Borders, HIAS Greece and RSA, *The state of the Border Procedure on the Greek islands*, September 2022, available at: <https://bit.ly/3VbNjU5>, pp. 19-20.

Ministry of Migration and Asylum to present [...] monthly reports of the Ministry of Migration and Asylum do not disaggregate first and second instance decisions by country of origin. However, detailed figures by country and type of decisions have been secured through parliamentary questions.<sup>740</sup>

According to MoMA Statistics, in 2023, 4.773 inadmissibility decisions were issued in application of JMD 734214/06.12.2022, of which 3,454 first instance inadmissibility decisions and 1.319 second instance inadmissibility decisions (1.237 inadmissibility decisions-border procedure- “safe third country”, 25 inadmissibility decisions- border procedure – “safe third country” Albania and 57 inadmissibility decisions-border procedure-“safe third country” North Macedonia).<sup>741</sup>

The criteria provided by the Asylum Code are to be assessed in each individual case, except where a third country has been declared as generally safe in the national list.<sup>742</sup> Such provision seems to derogate from the duty to carry out an individualised assessment of the safety criteria where the applicant comes from a country included in the list of “safe third countries”, contrary to the Directive and to international law. Even where a country has been designated as generally safe, the authorities should conduct an individualised examination of the fulfilment of the safety criteria. Moreover, there should be a possibility to challenge both the general designation of a country as safe and the application of the concept in an individual case.<sup>743</sup>

Up until the end of 2020, the safe third country concept was only applied in the context of the [Fast-Track Border Procedure](#) under Article 84 IPA, previously in force, to those who entered Greece after 20 March 2016 via the Greek Aegean islands and under a measure of geographical restriction. It should be noted that the concept was only applies to Syrian nationals.

Since June 2021, all applications for international protection submitted by nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh throughout the Greek territory are examined under the safe third country concept pursuant to JMD 42799/2021, as amended by JMD 485868/2021 and 734214/2022. Based on this new policy, asylum applications of people from the aforementioned five nationalities are not examined on the basis of their individual circumstances and the risks they face in their country of origin. Instead, they are presumed to be safe in Türkiye, and only if Türkiye is proven not to be safe, these applications are deemed ‘admissible’, and the competent decision authorities proceed to the examination of the applications for international protection on the merits. Three out of the five nationalities mentioned in the JMD 42799/03.06.2021 are amongst those with the highest recognition rate in Greece. In 2020, before the adoption of said JMD, 92% of Syrians, 66% of Afghans, and 94% of Somalis (median acceptance rate: 84%) received refugee or subsidiary status. However, since the JMD, rejections have increased significantly.<sup>744</sup>

In addition to the above, according to the official statistics of the Ministry of Migration and Asylum published in December 2023, ‘Returns under the EU - Türkiye Joint Declaration have not been made since March 2020 due to Covid-19. It should be noted that despite the lifting of the Covid-19 measures the requests of missions-returns of the Greek authorities have not been answered’.<sup>745</sup>

Furthermore, the suspension of returns/readmissions under the EU-Türkiye Statement is publicly acknowledged by both the European Commission and the relevant Ministers of the Greek government.<sup>746</sup>

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<sup>740</sup> RSA, *The Greek asylum procedure in figures in 2022, Analysis of main trends in refugee protection*, available at: <https://bit.ly/4482hhP>, p. 2.

<sup>741</sup> MoMA, *Statistics*, available at: <https://bit.ly/3zjCd8o>, p.8-9.

<sup>742</sup> Article 91(2) of the Asylum Code.

<sup>743</sup> RSA, *RSA Comments on the International Protection Bill*, October 2019, available at: <https://bit.ly/3eqsDC0>, pp. 4-5.

<sup>744</sup> GCR, *EU-Türkiye Statement: Six years of undermining refugee protection, 8 NGOs warn that policies implemented in Greece keep displaced people from accessing asylum procedures, despite clear need of protection*, available in Greek at: <https://bit.ly/3tMP7GU>, p. 1.

<sup>745</sup> MoMA, *Report A, December 2023*, available in Greek at: <https://bit.ly/3w8FN4f>, p. 19.

<sup>746</sup> European Commission, *Türkiye Report 2021*, SWD(2021) 290, 19 October 2021, available at: <https://bit.ly/3DiPMTP>, p. 48; *Reply to parliamentary question, Answer given by Ms Johansson on behalf of the European Commission*, Question reference: P-000604/2021, 1 June 2021, available at:

The European Commission, in a 12 October 2022 report on Türkiye, explicitly states *inter alia* that ‘Türkiye maintained the suspension of returns from the Greek islands that it put in place in March 2020 [...] The return of irregular migrants from the Greek islands under the EU-Türkiye Statement continued to be suspended, as it has been since March 2020.’<sup>747</sup> while in its 6<sup>th</sup> Annual report, the Commission clearly points out that Türkiye was no longer using COVID-19 as a pretext for refusing returns. In particular, the Commission recognizes that: ‘[a]lthough resettlements from Türkiye resumed as of July 2020, returns from Greece remain suspended. Responding to repeated requests from the Greek authorities and the European Commission regarding the resumption of return operations, Türkiye has stated that no return operation would take place unless the alleged pushbacks along the Turkish-Greek border stop and Greece revokes its decision to consider Türkiye a Safe Third Country’.<sup>748</sup> The Minister of Citizen Protection has explicitly stated that Türkiye refuses to implement the Statement and invokes the COVID-19 pandemic as grounds for suspending readmissions. The Minister of Migration and Asylum noted in early 2022 that “Türkiye has unilaterally suspended admission of those who do not qualify international protection since March 2020, under the pretext of COVID”. In a previous statement, the Minister stressed that Türkiye “has refused to implement its commitments, and continues to refuse to engage in any way on the issue”.<sup>749</sup> Besides, the Readmission Unit of the Migration Management Directorate of the Hellenic Police, in response to relevant questions submitted by GCR, systematically confirms the absence of any prospect of removal of refugees from the Eastern Aegean islands to Türkiye, while the Administrative Courts competent for the judicial review of detention affirm the manifest lack of prospects of readmissions to Türkiye, highlighting that the procedure for the readmission of third-country nationals to Türkiye has already been suspended since 16 March 2020 and there is no evidence that this suspension will be lifted immediately, that the police authority has not proceeded to any action to execute the readmission decision, as well as that precondition for the readmission of third-country nationals to Türkiye is the submission of a relevant return application by the competent Greek authority, however, no requests have been submitted for the applicants’ return to Türkiye nor does it appear that there is any intention to do so, due to the indefinite suspension of the relevant procedures on the part of the Turkish authorities.<sup>750</sup>

It is also worth noting that due to this suspension, the Greek authorities do not send readmission requests to the Turkish authorities regarding persons whose applications have been examined under the safe third country concept.<sup>751</sup>

Article 38(4) of the Asylum Procedures Directive, which provides that “where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II”, was transposed into Greek law through Article 91(5) of the Asylum Code,<sup>752</sup> pursuant to which “where the safe third country does not allow the applicant to enter its territory, his/her application shall be examined on the merits by the competent Examination Authorities”.

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<sup>747</sup> <https://bit.ly/3Ilx2hW>; European Commission, *Commission Staff Working Document: Türkiye 2020 Report*, 6 October 2020, available at: <https://bit.ly/3xgt4aK>, p. 48.

<sup>748</sup> European Commission, *Türkiye 2022 Report*, SWD(2022) 333 final, 12 October 2022, available at: <https://bit.ly/3HmE7X0>, pp. 5, 8. European Commission, *Sixth Annual Report on the Facility for Refugees in Türkiye*, COM(2022) 243, 24 May 2022, available at: <https://bit.ly/40N9H7r>, pp. 2-3.

<sup>749</sup> European Commission, *Sixth Annual Report on the Facility for Refugees in Türkiye*, COM(2022) 243, 24 May 2022, available at: <https://bit.ly/3LakP8y>, p. 3.

<sup>750</sup> RSA, *Greece arbitrarily deems Türkiye a ‘safe third country’ in flagrant violation of rights*, February 2022, available at: <https://bit.ly/3ilFsen>, p. 3; MoMA, *Request by Greece towards the EU for the immediate return 1,450 third country nationals under the Joint EU-Türkiye Statement*, 14 January 2021, available in Greek at: <https://bit.ly/3izPzma>.

<sup>751</sup> Administrative Court of Kavala, AR779/2022, 14 July 2022, para 4, Administrative Court of Athens AP831/2022, 26 May 2022, para 4, Administrative Court of Korinthos, Π2424/2022, 24 June 2022, para 3, Administrative Court of Rhodes, AP46/2022, 24 March 2022, para 4, AP72/2022, 25 May 2022, para 4, AP78/2022, 21 June 2022, para 3, AP79/2022, 21 June 2022, para 3, AP515/2021, 16 December 2021, para 3; AP514/2021, 16 December 2021, para 3; AP450/2021, 3 November 2021, para 4; AP136/2021, 24 March 2021, para 4; AP122/2021, 4 March 2021.

<sup>752</sup> See e.g. Hellenic Police, 4666/3-123706, 14 February 2022; 4666/3-123672, 2 February 2022; 4666/3-123670, 31 January 2022; 4666/3-123598, 20 January 2022; 4666/3-123580, 17 January 2022; 4666/3-123567, 15 January 2022; 4666/3-123539, 11 January 2022; 4666/3-229920, 27 December 2021; 4666/3-229748, 29 November 2021.

<sup>752</sup> L. 4636/2019, Gov. Gazette A’ 169/01.11.2019.

Despite the suspension of returns to Türkiye since March 2020,<sup>753</sup> and the aforementioned provision of Article 91(5) of the Asylum Code, the Greek asylum authorities systematically applied the safe third country concept during 2023 vis-à-vis applicants originating from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, leading to a large number of applicants having their claims dismissed as inadmissible and being ordered to return to Türkiye, without any prospects of readmission. As already noted above, as many as 4,691 asylum applications (at first and second instance) were dismissed as inadmissible based on the safe third country concept in 2023.<sup>754</sup> Subsequent applications lodged following a final rejection of an application for international protection as inadmissible are channelled again into admissibility procedures and dismissed based on the safe third country concept or due to a lack of new elements.

To the knowledge of GCR, in only a few decisions did the Appeals Committees deem applications for international protection admissible on the grounds that it was certain that Türkiye would not allow the appellants to enter its territory, in light the country's general refusal to readmit rejected applicants who had irregularly entered Greece through its territory.<sup>755</sup>

This practice exposes applicants for international protection to a legal limbo whereby they are not granted access to an examination of their applications on the merits, contrary to the purpose of the Geneva Convention and of the Asylum Procedures Directive. It also leads to their exclusion from reception conditions, without access to dignified living standards or the possibility to cater for their basic subsistence needs, including health care and food.

The issue on non-compliance by Greece with Article 38(4) of the Asylum Procedures Directive has been raised before the European Commission by the European Parliament<sup>756</sup>, while the issue of the implementation of the safe third country concept in Greece has been raised by civil society organisations<sup>757</sup> as well as by applicants for international protection affected by these violations.<sup>758</sup>

In response to the parliamentary questions raised by the European Parliament, the European Commission stated that:

'Türkiye suspended returns from Greece in March 2020, in the context of COVID-19 related restrictions and albeit repeated calls from Greece and the Commission to resume returns pursuant to the EU-Türkiye Statement, Türkiye has not so far resumed operations. Article 38(4) of the Asylum Procedures Directive provides that 'where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to [an asylum] procedure is given'. In line with that provision, applicants whose application has been declared inadmissible are therefore able to apply again. In re-examining and deciding on those applications, Greece will need to take into account the circumstances at the time of the (re-) examination of the individual applications, including with regard to the prospect of return in line with the EU-Türkiye Statement'.<sup>759</sup>

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<sup>753</sup> European Commission, *Türkiye 2022 Report*, SWD(2022) 333 final, 12 October 2022, available at: <https://bit.ly/41KEpPW>, p. 5, 8, 21, RSA, *Greece arbitrarily deems Türkiye a 'safe third country' in flagrant violation of rights*, February 2022, available at: <https://bit.ly/46RDw9l>, pp. 2-3, EASO, *Asylum Report 2021*, 29 June 2021, p. 242, available at: <https://bit.ly/3NjoEKi>; Hellenic Parliament, *Defence & Foreign Affairs Committee*, 17 December 2021, available in Greek at: <https://bit.ly/3RzGqLS>.

<sup>754</sup> MoMA, *Statistics*, available at: <https://bit.ly/3zjCd8o>, p.8-9.

<sup>755</sup> 10<sup>th</sup> Appeals Committee, No 83008/2023, 9 February 2023; 20<sup>th</sup> Appeals Committee, No 91410/2023, 14 February 2023; 10<sup>th</sup> Appeals Committee, No 151657/2023, 14 March 2023; 10<sup>th</sup> Appeals Committee, 312252/2023, 16 June 2023; 20<sup>th</sup> Appeals Committee, No IP/21911/2023, 18 July 2023; 20<sup>th</sup> Appeals Committee No IP/36908/2023, 28 July 2023.

<sup>756</sup> European Parliament, Written Questions P-000604/2021, 1 February 2021; E-4131/2021, 8 September 2021; E-5103/2021, 12 November 2021; E-1347/2022, 5 April 2022.

<sup>757</sup> *Joint Civil Society Letter to Commissioner Johansson: Implementation of the safe third country concept in Greece*, Reference No: β/50/4.3.2022, 8 March 2022, available at: <https://bit.ly/3iN3RPI>.

<sup>758</sup> CHAP(2021)02261, 7 June 2021; CHAP(2021)02274, 8 June 2021, CHAP(2021)02994, 31 July 2021. See also RSA, *Asylum seekers in Greece lodge complaint on infringement of Asylum Directives*, 16 June 2021, available at: <https://bit.ly/3tkl5ZV>.

<sup>759</sup> European Commission, *Reply to parliamentary question P-000604/2021(ASW)*, 1 June 2021, available at: <https://bit.ly/44otFZI>.

'In the Commission's view, to the extent inadmissible applicants are not being permitted to enter Türkiye, Article 38(4) of the directive should also be applied in relation to these applications and access given to the asylum procedure on the basis of their merits'<sup>760</sup>.

'The condition for the application of Article 38(4) of the Asylum Procedures Directive is that 'the third country does not permit the applicant to enter its territory'. If that condition is met, Member States shall ensure that access to a procedure on substance is given, and therefore shall not reject the subsequent application as inadmissible on the basis of the safe third country concept.'<sup>761</sup>

'Different factual or legal situations may result in an applicant not being permitted to enter the territory of a country designated as a safe third country in accordance with Article 38 of the Asylum Procedures Directive. Such situations include the suspension by either party of a bilateral readmission agreement, or the failure by the third country to respond within the relevant deadlines to readmission requests made by the Member State. To the extent the applicant is not permitted to enter the territory of the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State shall ensure, in accordance with the Asylum Procedures Directive, that access to a procedure is given to the applicant'.<sup>762</sup>

Following the 2022 Türkiye Report of the European Commission,<sup>763</sup> civil society organisations co-signed a letter addressed to the Director of the Asylum Service on the very same day, copied to the Ministers of Migration and Asylum, Foreign Affairs, as well as to the Deputy Minister of Foreign Affairs, the Executive Director of the Appeals Authority and the Deputy Director-General for Migration and Home Affairs of the European Commission. In the letter, the organizations urged the Director of the Asylum Services and the Ministries of Migration and Asylum and of Foreign Affairs to: '1. Immediately repeal the national list of safe third countries set out by JMD 42799/2021, as amended by JMD 458568/2021. 2. Publish previous and upcoming opinions of the Director of the Asylum Service regarding the designation of safe third countries, which should be made available to asylum seekers subject to the application of the list according to the European Commission. 3. Stop dismissing asylum applications as inadmissible based on the "safe third country" concept.'<sup>764</sup>

It should also be noted that, already in 2021, 'the Commission has requested the Greek authorities to apply Article 38(4) of the Asylum Procedures Directive (2013/32/EU), to the extent the conditions are met, to applicants whose applications have been deemed inadmissible on the basis of the Safe Third Country Concept under the Joint Ministerial Decision of 7 June 2021, in order to avoid the legal limbo you refer to. The Commission will continue to monitor the situation on the ground'.<sup>765</sup>

Moreover, the Greek Ombudsman highlighted that:<sup>766</sup>

'if readmission to that country is not possible, the application must be examined by the Greek authorities on the merits. Otherwise, this creates a perpetual cycle of admissibility assessments of applications for international protection, without ever examining their merits and without readmission to seek protection in the safe third country being possible. As a result, the fulfilment

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<sup>760</sup> European Commission, *Reply to parliamentary question E-004131/2021(ASW)*, 21 December 2021, available at: <https://bit.ly/45w7rFb>.

<sup>761</sup> European Commission, *Reply to parliamentary question E-005103/2021(ASW)*, 25 January 2022, available at: <https://bit.ly/3Q3NugU>.

<sup>762</sup> European Commission, *Reply to parliamentary question E-001347/2022(ASW)*, 22 June 2022, available at: <https://bit.ly/46OaKqG>.

<sup>763</sup> European Commission, *Türkiye Report 2022*, 12 October 2022, available at - <https://bit.ly/3Qc7xLV>.

<sup>764</sup> Letter to the Director of the Asylum Service by co-signing civil society organisations, *European Commission dispels Greece's designation of Türkiye as a 'safe third country' for refugees – Repeal the national list of safe third countries*, Ref. no: β/72/27.10.2022, 27 October 2022, available at: <https://bit.ly/40Lhq5J>.

<sup>765</sup> European Commission, Directorate General for Migration and Home Affairs, Ref.Ares(2021)7836311, 17 December 2021, no longer available online.

<sup>766</sup> RSA, *Greece arbitrarily deems Türkiye a 'safe third country' in flagrant violation of rights*, February 2022, available at: <https://bit.ly/3ilFsen>, p. 5; Ombudsman, Letters 301551/41050/2021 and 301755/41017/2021, 22 July 2021.

of the objective of the Geneva Convention and of relevant European and national legislation on refugee protection is essentially rendered null and void.’

According to internal SOPs of the Asylum Service from October 2021, still in force to date, asylum seekers of the nationalities mentioned in the relevant JMD, who have crossed from Türkiye a year ago or more must be considered as not having a special link with the country or that, in any case, the special link with Türkiye has ceased to exist. Based on these new instructions, the majority of cases examined before the RAOs on the islands received admissibility decisions and an examination of their asylum applications were examined on their merits. Several first instance decisions with the same reasoning have been issued since October 2021, namely since the aforementioned SOP started to be implemented. This has been of great importance for all Syrian cases, and even Afghanis and Somalis stuck in “limbo” in Greece for more than a year, many of whom were waiting for the examination of their subsequent applications. However, this practice was not consistent. For instance, there were cases to which the Asylum Service applied the new JMD even if the applicants had already been referred to the regular procedure.

On 7 October 2021, GCR and Refugee Support Aegean (RSA) filed a judicial review before the Greek Council of State for the annulment of the JMD 42799/03.06.2021 designating Türkiye as a safe third country for nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh.<sup>767</sup> On 4 March 2022, requests for the continuation of the hearing were filed before the Council of State for the annulment of the subsequent JMD, 458568/15.12.2021 of the Minister of Migration and Asylum and the Deputy Minister of Foreign Affairs. The application for annulment was examined before the Plenary of the Council of State on 11 March 2022.

On 3 February 2023, the Plenary of the Council of State issued its decision No. 177/2023,<sup>768</sup> which postpones the final judgment and refers the following questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling, given that there are reasonable doubts as to the meaning of Article 38 of the Directive:

- a) Must Article 38 of the Asylum Procedures Directive, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, be interpreted as precluding national legislation, designating a third country as generally safe for certain categories of applicants for international protection, which has undertaken the legal obligation to readmit those categories of applicants to its territory, but it follows that for a long time (in case more than twenty months) this country has refused readmissions and that the possibility to change the country’s attitude in the near future does not appear to have been explored? Or,
- b) Must this Article be interpreted as meaning that readmission to the third country is not a cumulative condition for the adoption of the national act designating a third country as safe for these categories of applicants, but it is a cumulative condition for the adoption of an individual act rejecting a specific application for international protection as inadmissible on the ground of ‘safe third country’? Or,
- c) Must Article 38 be interpreted as meaning that the possibility of readmission to the ‘safe third country’ must be established only at the time of enforcement of the decision, where that decision to reject the application for international protection is based on the ‘safe third country’ ground?<sup>769</sup>

## 2.1 Safety criteria

### Applications lodged by Syrian, Afghan, Somali, Bangladeshi and Pakistani nationals

In 2022, the Asylum Service issued 8,611 first instance decisions on applications lodged by Syrian (initially subject to the [fast-track border procedure](#)), Afghan, Somali, Bangladeshi and Pakistani applicants,

<sup>767</sup> GCR, *Decision declaring Türkiye a ‘safe third country’ brought before Greek Council of State*, 7 October 2021, available at: <https://bit.ly/3iLkeMJ>.

<sup>768</sup> Plenary of the Council of State, 177/2023, available in Greek at: <https://bit.ly/426WSpv>. See also RSA, *Key points of the Greek Council of State ruling on the ‘safe third country’ concept*, 17 February 2023, available at: <https://bit.ly/3FB91KC>.

<sup>769</sup> European Legal Network on Asylum (ELENA), *Greece: Preliminary reference regarding Türkiye as a safe third country*, 3 February 2023, available at: <https://bit.ly/3LhmQzH>.



including third country nationals of Palestinian Origin with previous habitual residence in Syria. The applications submitted by the aforementioned applicants were examined under the safe third country concept.<sup>770</sup> According to the official figures provided by the Ministry of Migration and Asylum to the Hellenic Parliament, the Asylum Service dismissed 3,409 claims as inadmissible based on the “safe third country” concept (Afghanistan: 1,095, Bangladesh: 231, Pakistan: 249, Somalia: 577, Syria: 1,257).<sup>771</sup>

A relevant breakdown for 2023 has not been provided by the MoMA, even though GCR has requested it. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry’s website “and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”.<sup>772</sup> Yet a closer look at the public sources referenced by the MoMA highlights only a limited part of this data is available.

Namely, as per the MoMA’ monthly updates,<sup>773</sup> throughout 2023, a total of 3,454 first instance inadmissibility decisions seem to have been issued under the safe third country concept, in the context of border procedures. For the purpose of clarity and certainty beyond doubt this data needs to be checked, given that in the two different language versions (English and Greek) of the same publication, the specific number is quoted in one case (English) as related to the number of first instance inadmissibility decisions under the safe third country concept, and in the other (Greek), as related to first instance inadmissibility decisions under the first country of asylum concept. Nevertheless, given that as mentioned in [First Country of Asylum](#), the specific concept (i.e., first country) is not applied as a stand-alone inadmissibility ground in practice, it could be presumed that in the latter version reference to the first country of asylum is erroneous.

Since mid-2016, namely from the very first decisions applying the safe third country concept in the cases of Syrian nationals, until today, first instance decisions dismissing the applications of Syrian nationals as inadmissible on the basis that Türkiye is a safe third country in the [Fast-Track Border Procedure](#), are based on a pre-defined template provided to Regional Asylum Offices or Asylum Units on the islands, and are identical, except for the applicants’ personal details and a few lines mentioning their statements, and repetitive.<sup>774</sup>

Specifically, the Asylum Service reaches the conclusion that Türkiye is a safe third country for Syrian nationals, relying on:

- (a) the provisions of Turkish legal regime in force, i.e., the Turkish Law on Foreigners and International Protection (LFIP), published on 4 April 2013,<sup>775</sup> the Turkish Temporary Protection Regulation (TPR), published on 2014<sup>776</sup> and the Regulation on Work Permit for Applicants for and

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<sup>770</sup> MoMA, *Parliamentary Control*, Protocol No 97157, 17 February 2022, available in Greek at: <https://bit.ly/3qGGT16>, p. 8.

<sup>771</sup> MoMA, *Reply of the Ministry to the Greek Parliament*, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, p. 12.

<sup>772</sup> MoMA, Analysis and Studies Office, *Reply to GCR’s request for information for the preparation of the present 2023 Update of AIDA Country Report: Greece*, received on 14 February 2024, protocol no. 55259).

<sup>773</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available in English at: <https://tinyurl.com/yc2stzh7>, table 9a, and in Greek at: <https://tinyurl.com/4jz62zxm>, table 9a.

<sup>774</sup> ECRE, *The role of EASO operations in national asylum systems*, 29 November 2019, available at: <https://bit.ly/2RVALRt>, pp. 33 and 35; ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, p. 38, available at: <https://bit.ly/4a8gllp>. On **Lesvos**, see GCR, *GCR Mission to Lesvos – November 2016*, available at: <https://bit.ly/3Gv1rRT>, p. 20; On **Samos**, see GCR, *GCR Mission to Samos – June 2016*, available at: <https://bit.ly/3GvJJO6>, p. 20 On **Leros** and **Kos**, see GCR, *GCR Mission to Leros and Kos – May to November 2016*, p. 32, available at: <https://bit.ly/3t7mWol>.

<sup>775</sup> Türkiye: Law No. 6458 of 2013 on Foreigners and International Protection, 4 April 2013, as amended by the Emergency Decree No 676, 29 October 2016, available at: <https://bit.ly/3LhAJhk>.

<sup>776</sup> National Legislative Bodies / National Authorities, *Türkiye: Temporary Protection Regulation*, 22 October 2014, available at: <https://bit.ly/2YM9F3T>.

- Beneficiaries of International Protection, published on 26 April 2016,<sup>777</sup> without taking into consideration its critical amendments, based on emergency measures;<sup>778</sup>
- (b) the letters, dated 2016, exchanged between the European Commission and Turkish authorities,<sup>779</sup>
  - (c) the letters, dated 2016, exchanged between the European Commission and the Greek authorities,<sup>780</sup>
  - (d) the 2016 letters of UNHCR to the Greek Asylum Service, regarding the implementation of Turkish law about temporary protection for Syrians returning from Greece to Türkiye and
  - (e) sources, indicated only by title and link, without proceeding to any concrete reference and legal analysis of the parts they base their conclusions.

Although a number of more recent sources have been added to the endnotes of some decisions issued since late 2018 and up until today, their content is not at all assessed or taken into account and applications continue to be rejected as inadmissible on the same reasoning as before.<sup>781</sup> For instance, sources cited in decisions delivered by different IAC (Independent Appeals Committees) in the course of 2023 refer *inter alia* to the 2019 and 2020 updates of the Asylum Information Database (AIDA) country report on Türkiye, to other reports published in 2017 and 2018, and to two letters sent by the Permanent Delegation of Türkiye to the EU to the European Commission in April 2016 in the context of the EU-Turkey Statement.<sup>782</sup>

<sup>777</sup> National Legislative Bodies / National Authorities, *Türkiye: Regulation on Work Permit of International Protection Applicants and International Protection Status Holders*, 26 April 2016, available at: <https://bit.ly/3oTLij3>.

<sup>778</sup> Venice Commission, Opinion No. 865 / 2016, *Opinion on the Emergency Decree Laws Nos. 667-676 adopted following the failed coup of 15 July 2016*, adopted at its 109th plenary session, 9-10 December 2016, Doc. CDL-AD(2016)037, available at: <https://bit.ly/3uQDa6h>; International Commission of Jurists, *Türkiye: Justice suspended, Access to justice and the State of Emergency in Türkiye*, 2018, available at: <https://bit.ly/3DlcsTi>, p. 2.

<sup>779</sup> Letters between the European Commission and the Turkish and Greek authorities between April and July 2016, available at: <https://bit.ly/4bbi6Y2>.

<sup>780</sup> *Ibid.*

<sup>781</sup> Indicatively, some of the sources used by the GAS to reject applications even to this day, include: USDOS – US Department of State, *2019 Report on International Religious Freedom: Syria*, 10 June 2020, <https://tinyurl.com/4h8pc3u4>; GIZ, *Civil Society and State Engagement in the Refugee Response in Turkey: Law and Regulations*, 2021, <https://tinyurl.com/96t3bbpr>; UNHCR, *Key information for Syrians, Temporary protection in Turkey*, undated, <https://tinyurl.com/mwy238c6>; European Council on Refugees and Exiles (ECRE), *Country report: Turkey - 2018 update*, 30 April 2019, <https://tinyurl.com/ye2x92tf>; ACCORD, *Türkiye COI Compilation*, August 2020, available at: <https://bit.ly/3iKTfRv>; Syrian Observatory for Human Rights, *Türkiye's involvement in Libya war | 150 Syrian children recruited and sent to fight in Libya*, 16 killed, May 13, 2020, available at: <https://bit.ly/3iIE2QT>; UD Department of State, *2019 Country Reports on Human Rights Practices: Türkiye*, available at: <https://bit.ly/3wMJJaM1>; EASO, *Syria: Internally displaced persons, returnees and internal mobility*, April 2020, available at: <https://bit.ly/46Jxx77>; ECRE, *Country Report: Türkiye*, 2019 Update, April 2020, available at: <https://bit.ly/3wKv5i6>; European Commission, European Civil Protection and Humanitarian Aid Operations, *ECHO Factsheet Türkiye: Refugee Crisis*, Last consulted on 17/05/2021, available at: <https://bit.ly/3JJyami>; Republic of Türkiye, *Regulation on Work Permit of International Protection Applicants and International Protection Status Holders*, 26 April 2016 (Unofficial translation by UNHCR Türkiye), available at: <https://bit.ly/3Ti1ZIK>; US Department of State, *Country Report on Human Rights Practices: Türkiye*, 30 March 2021, <https://bit.ly/3xonaaj>; European Commission, *Türkiye 2020 Report [SWD(2020) 355 final]*, 6 October 2020, available at: <https://bit.ly/38aSyyW>; UNHCR, *Key information for non-Syrians, Livelihoods*, undated, available at: <https://bit.ly/3DjkuFi>; AAN, *Afghan Exodus: Migrant in Türkiye left to fend for themselves*, 22 December 2020, available at: <https://bit.ly/3LptQZT>; UNHCR, *Key information for non-Syrians, Medical and psychological assistance*, undated, available at: <https://bit.ly/3iPQ8Yk>; UNHCR, *Key information for non-Syrians, Education*, undated, available at: <https://bit.ly/3iLl9eY>; UNHCR, *Türkiye Education Sector Achievements as of March 2021*, March 2021, available at: <https://bit.ly/3wRj3z3>; Respond, Susan Beth Rottmann - Özyeğin University, *Türkiye Country Report, Integration Policies, Practices and Experiences, Global Migration: Consequences and Responses*, Paper 2020/50, June 2020, available at: <https://bit.ly/3qJOJXE>.

<sup>782</sup> See, e.g., 2nd IAC, IP/142459/2023, 25 September 2023; 4th IAC, 79499/2023, 8 February 2023; 5th IAC, 39744/2023, 20 January 2023; 6th IAC, IP/312088/2023, 28 November 2023; IP/291367/2023, 21 November 2023; 8th IAC, 103648/2023, 20 February 2023; 11th IAC, IP/578/2023, 28 June 2023; 12th IAC, 168365/2023, 22 March 2023; 13th IAC, IP/113682/2023, 13 September 2023; 22148/2023, 13 January 2023; 14th IAC, IP/335367/2023, 6 December 2023; 250567/2023, 3 May 2023; 211179/2023, 11 April 2023; 15th IAC, 300763/2023, 12 June 2023; 16th IAC, 85916/2023, 10 February 2023; 17th IAC, 297832/2023, 9 June 2023; 20th IAC, 91410/2023, 14 February 2023; 21st IAC, 87590/2023, 13 February 2023, as cited in ProAsyl and RSA, “The concept of “Safe third country”. Legal standards and Implementation in the Greek Asylum System, February 2024, available at: <https://bit.ly/44fR5jV>, p. 10, note 29.

Accordingly, negative first instance decisions, qualifying Türkiye as a safe third country for Syrians, are not only identical and repetitive – failing to provide an individualised assessment, in violation of Articles 10 and 38 of the Directive 2013/32/EU, but also outdated insofar as they do not take into account developments after 2016, failing to meet their obligation to investigate *ex officio* the material originating from reliable and objective sources as regards the situation in Türkiye, and the actual regime in the country, given the absolute nature of the protection afforded by Article 3 ECHR.

It is worth noting that first instance decisions rejecting as inadmissible the applications lodged by Afghans, Somalis, Bangladeshis and Pakistanis are based *inter alia* on the aforementioned letters from 2016 although these are not only outdated but, more importantly, only concern Syrian nationals.

Considering that the same template decision has been used since 2016, the finding of the United Nations Special Rapporteur on the human rights of migrants in 2017, according to whom “admissibility decisions issued are consistently short, qualify Türkiye as a safe third country and reject the application as inadmissible: this makes them practically unreviewable”,<sup>783</sup> remains valid. As far as GCR is aware, second instance decisions issued by the Independent Appeals Committees for Syrian applicants in many cases uphold the first instance inadmissibility decisions depending on the specific Committee handling the case.<sup>784</sup>

Throughout 2023, Greece maintained the use of the fast-track border procedure under the derogation provisions of Article 95(3) of the Asylum Code only in islands.<sup>785</sup>

In 2023, in contravention with the scope of application of the border procedure, the Asylum Service continued to systematically apply the border procedure in the CCAC of Lesbos, Chios, Samos, Leros and Kos without there being circumstances of “mass arrivals” or regulations to that end after the effects of JMD 15596/2020 ceased at the end of 2021. The Asylum Service issued 2,286 first instance decisions in the border procedure in 2022. Yet, only 462 of those were inadmissibility decisions and 74 were manifestly unfounded rejections. This means that the majority of decisions (1,750) exceed the scope of Article 95(1) of the Asylum Code and should not have been issued in that procedure.<sup>786</sup> In 2023, the Asylum Service issued 3,454 inadmissible first instance decisions in the category “Inadmissible-Border procedure-Safe third country”.<sup>787</sup> At the same time, the second instance decisions referred as “Inadmissible-Border procedure-Safe third country” were 1,237. It is also indicating separately that the second instance decisions in the category “Inadmissible-Border procedure-Safe third country AL” regarding Albania, were 25 while the second instance decisions in the category “Inadmissible-Border procedure-Safe third country NM” regarding North Macedonia were 57.

#### *Decisions under the fast-track border procedure [article 90(3)] and JMD 42799/2021*

While JMD 42799/2021 was in force from 7 June to 31 December 2021, a total of 2,000 decisions by the Committees of the Appeals Authority were issued under the fast-track border procedure [article 90(3) IPA] regarding the five main nationalities (Syria, Afghanistan, Somalia, Pakistan and Bangladesh). Out of the 2,000 decisions under the safe third country concept, 1,635 considered the applications “inadmissible”, (Syria: 542, Afghanistan: 417, Bangladesh: 126, Pakistan: 498 and Somalia: 52).<sup>788</sup> The number of applications deemed admissible under the JMD by the Appeals Committees was 216, and the number of

<sup>783</sup> United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 81, available at: <https://bit.ly/46OeNTU>.

<sup>784</sup> For a detailed analysis of the first instance decisions rejecting applications submitted by Syrian applicants as inadmissible on the basis of safe third country, see the *Admissibility* section of the AIDA, Country Report: Greece, Updates 2016, 2017, 2018, 2019, 2020 and 2021, available at: <https://bit.ly/45vXAir>. These findings are still relevant, as the same template has been used since mid-2016.

<sup>785</sup> Article 95(3) Asylum Code.

<sup>786</sup> RSA, *The Greek asylum procedure in figures in 2022, Analysis of main trends in refugee protection*, available at: <https://bit.ly/4482hhP>, p. 12.

<sup>787</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 9a.

<sup>788</sup> Information provided by the Appeals Authority, 11 March 2022.

appeals pending by the end of the year reached 1,601. Similarly to previous years, it is worth noting that the statistics provided by the Ministry of Migration and Asylum continue to show inconsistencies.<sup>789</sup> Relative data for 2023 have not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]"<sup>790</sup>. Yet a closer look at the public sources referred by the MoMA highlights the specific data is not available.

### *Decisions under the JMD 42799/2021*

During 2022, 2.709 decisions were issued under the JMD 42799/2021 from the Appeals Committee. Out of these decisions, 2.696 applications of Syrians, Afghans, Somalis, Pakistanis and Bangladeshis nationals, were deemed "inadmissible" (Afghanistan: 1.113, Bangladesh: 345, Pakistan: 626, Somalia: 307, Syria: 305).<sup>791</sup> Relative data for 2023 have not been provided by the MoMA other than those referred above, even though GCR has requested it on a yearly basis.

Decisions of the Appeals Committees rejecting cases as inadmissible follow the line of reasoning of the Asylum Service to a great extent. Appeals Committees have continued to refrain from taking into consideration up-to-date and reliable sources of information concerning risks of inhuman or degrading treatment and *refoulement* facing individuals in Türkiye. Appeals Committees have also held that the designation of a third country as safe may be maintained, even in cases where the applicant invoked reports by international organisations reaching the opposite conclusion.<sup>792</sup> Greek authorities come to the conclusion that applicants do not face a risk of *refoulement* in Türkiye on the ground that they had not already faced such treatment in the country prior to their arrival in Greece.<sup>793</sup> Only in a few exceptions have IAC cited Türkiye's practice of coercion of refugees into signing "voluntary return" forms.<sup>794</sup> Furthermore, none of the Asylum Service and IAC decisions seen in 2023 refer to authoritative evidence on the current state and deficiencies of the Turkish asylum system, including a "20% rule" on registration of international and temporary protection claims in all provinces with a significant population of non-nationals, and removal of tens of thousands to countries such as Afghanistan and Syria. Almost none refer to the country's "20% rule" on access to asylum procedures.<sup>795</sup>

<sup>789</sup> RSA, *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, available at: <https://bit.ly/3qH3qeo>, p. 9.

<sup>790</sup> MoMA, Analysis and Studies Office, *Reply to GCR's request for information for the preparation of the present 2023 Update of AIDA Country Report: Greece*, received on 14 February 2024, protocol no. 55259).

<sup>791</sup> MoMA, *Reply of the Ministry to the Greek Parliament*, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, p. 12.

<sup>792</sup> **2nd IAC**, 171515/2023, 23 March 2023, p. 7; **8th IAC**, 583703/2022, 5 October 2022, p. 12; 511455/2022, 5 September 2022, p. 19; 237130/2022, 29 April 2022, p. 16; 161054/2022, 21 March 2022, p. 13; 142176/2022, 11 March 2022, para 9; 458313/2021, 15 December 2021, para 9; **11th IAC**, 71895/2022, 8 February 2022, para 13; 67923/2022, 7 February 2022, para 9; 384227/2021, 15 November 2021, para 9; 2075/2021, 26 February 2021, para 11; 2727/2020, 9 April 2020, para 10; **13th IAC**, IP/113682/2023, 13 September 2023, para 11; 22148/2023, 13 January 2023, para 8; 734754/2022, 7 December 2022, para 9; **14th IAC**, IP/335367/2023, 6 December 2023, p. 18; 250567/2023, 3 May 2023, p. 24; 211179/2023, 11 April 2023, p. 24; **16th IAC**, 85916/2023, 10 February 2023, para IV.4; 394674/2022, 7 July 2022, p. 7; **21st IAC**, 710801/2022, 28 November 2022, pp. 9-10; 690292/2022, 18 November 2022, p. 8; 467020/2021, 20 December 2021, p. 10, as cited in ProAsyl and RSA, *The concept of "Safe third country". Legal standards and Implementation in the Greek Asylum System*, February 2024, available at: <https://bit.ly/44fR5jV>, p. 10, note 29.

<sup>793</sup> For example, 3rd IAC, 47496/2022, 28 January 2022, para 15; 4th IAC, 204504/2023, 7 April 2023, pp. 18-19; 79499/2023, 8 February 2023, para III.2; 6th IAC, IP312088/2023, 28 November 2023, para IV.5; IP/291367/2023, 21 November 2023, para IV.5; 11th IAC, IP/578/2023, 28 June 2023, pp. 24-25; 12th IAC, 168365/2023, 7 April 2023, p. 15; 14th IAC, IP/335367/2023, 6 December 2023, p. 21; 250567/2023, 3 May 2023, p. 26; 211179/2023, 11 April 2023, pp. 25-26.

<sup>794</sup> 10th IAC, 22083/2020, 28 April 2021, para 2; 12540/2020, para 4; 17th IAC, 292768/2023, 8 June 2023, para 3; 21st IAC, 398486/2021, 19 November 2021, p. 20, as cited in ProAsyl and RSA, *The concept of "Safe third country". Legal standards and Implementation in the Greek Asylum System*, February 2024, available at: <https://bit.ly/44fR5jV>, p.12, note 43.

<sup>795</sup> Exceptions include 4th IAC, 204504/2023, 7 April 2023, pp. 14 and 17; 12th IAC, 168365/2023, 22 March 2023, pp. 11 and 14; 15th IAC, IP/20208/2024, 10 January 2024, para 16, as cited in ProAsyl and RSA, *The*

Illustrative of a good practice is the Administrative Court of Athens' decision to annul a second instance decision for inadequate statement of reasons because it was based on sources of information for Türkiye in 2016 which were not updated at the time of the examination of the application (2020), *i.e.*, more than four years after the date of the contested decision.<sup>796</sup>

To GCR's knowledge there have been certain appeals of Syrians and Afghans which have been considered as admissible at second instance.<sup>797</sup> For example, the subsequent application lodged by a Syrian single man was deemed admissible because the long period of time which elapsed since the rejection of his first application as inadmissible, during which his readmission to Türkiye has not been completed, was considered to be a new and substantial element. Furthermore, the Appeals Committee took into consideration the information available, pursuant to which there is no imminent change in Türkiye's position and it therefore decided that it must be accepted that the relevant application cannot be dismissed as inadmissible.<sup>798</sup>

The Asylum Service has considered admissible the application of applicants due to the fact that they faced a serious problem of communication with Turkish authorities for applying for temporary protection in a way that they could not organize their lives in Türkiye without been exposed to the risk of serious harm and insult to their human dignity.<sup>799</sup> The Asylum service had also accepted as admissible the application of women applicants deciding that a woman, alone, without a viable social network, professional and family ties in Türkiye, it is considered that it would be particularly difficult for her to live in the country due to the discrimination and social abuse against women in Türkiye.<sup>800</sup> In another similar case of a Somalian woman with children, single parent, survivors of a shipwreck, the Asylum Service added also that the applicants face the risk of sexual and gender-based violence and discriminatory treatment regarding their social rights (housing, employment) due to the fact that the applicant is a woman without a supportive network. The Asylum Service had also found admissible the application of a family with children from Afghanistan because of systematic violation of the principle of non-refoulement by Turkish authorities according to informed sources. It considered that due to that systematic violation, the applicants face the risk of refoulement to a third country where torture or other cruel, inhuman or degrading treatment or punishment is reported to occur.<sup>801</sup>

According to GCR's observation, in some cases, the appeals lodged by Syrian nationals who used to reside in the Syrian areas where Türkiye conducts military activities have been considered admissible because the condition of 'connection' could not be fulfilled, in light of the violent military intervention of Türkiye in their region of origin. Also, GCR is aware of a second instance decision which considered the appeal of a Syrian who remained in Türkiye for the short period of 15 days as admissible, on the ground that transit *per se* shall not be conceived in itself as a sufficient or significant connection with the country.

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concept of "Safe third country". *Legal standards and Implementation in the Greek Asylum System*, February 2024, available at: <https://bit.ly/44fR5jV>, p. 10, note 29.

<sup>796</sup> Administrative Court of Thessaloniki, 1260/2023, 15 September 2023, in GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, 2/23, January 24, available in Greek at: <https://bit.ly/3JuO7y7>.

<sup>797</sup> GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, January 2021, available in Greek at: <https://bit.ly/3DmHWs9>, *Greek Asylum Case Law Report*, 1/2022, June 2022, available in Greek at: <https://bit.ly/3oLmN7P>, *Greek Asylum Case Law Report* 2/2022, December 2022, available in Greek at: <https://bit.ly/3RIPWRQ>.

<sup>798</sup> 19<sup>th</sup> Appeals Committee, Decision 761318, 19 December 2022.

<sup>799</sup> RAO Lesvos, 8959/2023, 5 January 2023 in GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, 1/23, June 2023, available in Greek at: <https://bit.ly/44gdVrl>; RAO Lesvos, IP/37214/2023, 28 July 2023 in GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, 2/23, January 24, available in Greek at: <https://bit.ly/3JuO7y7>.

<sup>800</sup> AU Fylakio, 160905/2023, 17 March 2023 in GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, 1/23, June 2023, available in Greek at: <https://bit.ly/44gdVrl>.

<sup>801</sup> RAO Peiraeus, 231799/2023, 25 April 2023, also RAO 181652/2023, 28 March 2023, RAO Lesvos, 185687/2023 and 185693/2023, 30 March 2023 in GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report*, 1/23, June 2023, available in Greek at: <https://bit.ly/44gdVrl>.

## 2.2 Connection criteria

Article 91(1)(f) Asylum Code requires there to be a connection between the applicant and the “safe third country”, which would make return thereto reasonable. Whereas no further guidance was laid down in previous legislation<sup>802</sup> as to the connections considered “reasonable” between an applicant and a third country,<sup>803</sup> the IPA, as amended by the Asylum Code, has introduced further detail in the determination of such a connection. Transit through a third country may be considered as such a connection in conjunction with specific circumstances such as:<sup>804</sup>

- (a) Length of stay;
- (b) Possible contact or objective and subjective possibility of contact with the authorities for the purpose of access to the labour market or granting a right to residence;
- (c) Stay prior to transit, e.g., long-stay visits or studies;
- (d) Presence of relatives, including distant relatives;
- (e) Existence of social, professional or cultural ties;
- (f) Existence of property;
- (g) Connection to a broader community;
- (h) Knowledge of the language concerned;
- (i) Geographical proximity to the country of origin.

The article attempts to incorporate into Greek law the decision of the Plenary Session of the Council of State No 2347-2348/2017, which accepted that Türkiye may be designated as a safe third country for Syrian citizens. However, in view of the strong minority of 12 members, out of a total of 25, advocating for the referral of a preliminary question to the Court of Justice of the European Union, this judgment cannot be regarded as a reliable case-law, be it at the national, European or international level, which would justify transposing it into Greek law. It should be noted that among the issues raised in the Plenary Session, the issue of the applicant's safe connection with the third country was of particular concern as well as whether the applicant's simple transit through that country was sufficient in this respect, in combination with certain circumstances, such as the duration of their stay there and the proximity to their country of origin.

The compatibility of Article 91(1)(f) Asylum Code with the EU *acquis* should be further assessed, in particular taking into consideration the CJEU Decision in case C-564/18 of 19 March 2020, in which the Court ruled that “the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country”.

It is worth noting that, since October 2021, applications for international protection of asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia are deemed admissible if a period of more than one year has elapsed since the applicants' transit from the third country and the applicants have not maintained relations (economic, social, etc.) with that country during that period. Hence, it is considered that the precondition of the link as per Article 91(1)(f) of the Asylum Code is no longer fulfilled and as such it would be not reasonable for the applicants to return to that country. The aforementioned admissibility decisions are based on internal Guidelines of the Asylum Service issued in October 2021, which have nevertheless not been made public to date.

As regards subsequent applications lodged upon rejection of a first application on safe third country grounds, the Ministry of Migration and Asylum issued a Circular on 6 July 2021, as per which:

*‘Specifically, for those applicants entering from Türkiye, the invocation of new and substantial elements must relate exclusively as foreseen in the law and the EU-Türkiye Joint Statement, to the finding on the initial application as to whether Türkiye – as the country of transit of the applicant – is safe or not for them in accordance with the national and European legislation. In the absence of any new and substantial elements as provided above, the subsequent application shall be rejected by the competent examination authorities as inadmissible, in accordance with [Article 94(4) of the Asylum Code].’* According to the above

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<sup>802</sup> Article 56(1)(f) L 4375/2016.

<sup>803</sup> Article 56(1)(f) L 4375/2016.

<sup>804</sup> Article 86(1)(f) IPA and 91(1)(f) of the Asylum Code.

*Circular, the fact that readmissions to Türkiye have been suspended since March 2020 is not considered as a new and substantial element.*<sup>805</sup>

In such cases, applicants were expected to provide new and substantial elements as to why Türkiye could not be considered a safe third country for them. In many of them, Asylum Service found the application admissible based on the new elements provided, taking into account that in the lapse of the one-year period between the decision of inadmissibility and the submission of the subsequent application, the applicant was staying in Greece in a way that a connection to Türkiye could no longer be established.<sup>806</sup>

Moreover, as no provision on the methodology to be followed by the authorities in order to assess whether a country qualifies as a “safe third country” for an individual applicant, the compatibility of national legislation with Art. 38 of the Directive 2013/32/EU should be assessed, in particular in light of the case law of the CJEU.<sup>807</sup> In this regard, it should also be also mentioned that the lack of a “methodology” provided by national law, could render the provision non-applicable.<sup>808</sup>

In practice, as it appears from first instance inadmissibility decisions issued to Syrian nationals, to the knowledge of GCR, the Asylum Service considers that the fact that an applicant would be subject to a temporary protection status upon return is sufficient in itself to establish a connection between the applicant and Türkiye, even in cases of very short stays and in the absence of other links.<sup>809</sup>

The Appeals Committees considers that the connection criteria can be established by taking into consideration *inter alia* the “large number of persons of the same ethnicity” living in Türkiye, the “free will and choice” of the applicants to leave Türkiye and “not organise their lives in Türkiye”, “ethnic and/or cultural bonds” without further specification, the proximity of Türkiye to Syria, and the presence of relatives or friends in Türkiye without effective examination of their status and situation there. Additionally, in line with the 2017 rulings of the Council of State,<sup>810</sup> transit from a third country, in conjunction with *inter alia* the length of stay in that country or the proximity of that country to the country of origin, is also considered in second instance decisions as sufficient for the fulfilment of the connection criteria. It should be recalled that in the case presented before the Council of State where the Court found that the connection criteria were fulfilled, that applicants had stayed in Türkiye for periods of one and a half month and one month respectively.

Greek courts have clarified, for instance, that such an assessment cannot be limited to mere reference to the number of refugees present in the country or the duration of the person’s stay prior to arrival in Greece.<sup>811</sup> Yet, asylum authorities at first and second instance frequently use a standard text concluding on the existence of a connection between an applicant and Türkiye, without having conducted any individualised assessment of their personal circumstances. Other decisions adopt widely diverging and at times too broad interpretations of factors that may establish a sufficient connection.<sup>812</sup>

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<sup>805</sup> RSA *et al.*, *The state of the border procedure on the Greek islands*, September 2022, available at: <https://bit.ly/46PpMfC>, p. 22.

<sup>806</sup> *Ibid.*, pp. 23-24.

<sup>807</sup> CJEU, Case C-564/18, LH v Bevándorlási és Menekültügyi Hivatal, 19 March 2020; see RSA, *RSA Comments on the Reform of the International Protection Act*, <https://bit.ly/3dLzGUt>, p. 14.

<sup>808</sup> CJEU, Case C-528/15, Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie v. Salah Al Chodor, 15 March 2017; see RSA, *RSA Comments on the Reform of the International Protection Act*, *idem*.

<sup>809</sup> Note that the decision refers to the applicant’s ‘right to request an international protection status’, even though persons under temporary protection are barred from applying for international protection, see AIDA, *Country Report: Türkiye, 2017 Update*, March 2018, available at: <https://bit.ly/4aP9k23>, p. 125.

<sup>810</sup> Council of State, Decision 2347/2017, 22 September 2017, para 62; Decision 2348/2017, 22 September 2017, para 62. Note the dissenting opinion of the Vice-President of the court, stating that transit alone cannot be considered a connection, since there was no voluntary stay for a significant period of time. See also EDAL, Greek Council of State, Decision no 2347/2017, 22 September 2017, available at: <https://bit.ly/3QibK0Z>; EDAL, *Greek Council of State on Turkey as a safe third country and aspects of the Greek Asylum procedure*, 22 September 2017, available at: <https://bit.ly/3UcgPJd>; Joint decisions 2347/2017 and 2348/2017, 2347/2017 and 2348/201, Greece: Council of State, 22 September 2017, <https://bit.ly/44uHAXr>.

<sup>811</sup> Administrative Court of Athens, 103/2023, 31 January 2023, para 9.

<sup>812</sup> For example, 1st IAC, 310227/2022, 1 June 2022, para 4.3; 6th IAC, 5892/2020, 27 May 2020, p. 25; 8th IAC, 103648/2023, 20 February 2023, pp. 8-9; 142176/2022, 11 March 2022, para 10; 458313/2021, 15 December 2021, para 10; 9th IAC, 288224/2021, 4 October 2021, p. 11; 13th IAC, IP/113682/2023, 13 September 2023,

Nevertheless, GCR is aware of a few second instance decisions issued between 2021 and 2023 in cases that concerned applicants from Afghanistan and Syria, examined under the safe third country concept, in which the Committees upheld that that requirements for the application of the safe third country concept, including, in some cases, with respect to the establishment of a sufficient connection, were not fulfilled.<sup>813</sup>

### 3. First country of asylum

The “first country of asylum” concept is a ground for inadmissibility (see [Admissibility Procedure](#) and [Fast-Track Border Procedure](#)).

According to Article 90 Asylum Code, a country shall be considered to be a “first country of asylum” for an applicant provided that he or she will be readmitted to that country, if the applicant has been recognised as a refugee in that country and can still enjoy that protection or enjoys other effective protection in that country, including benefit from the principle of *non-refoulement*. The “first country of asylum” concept is not applied as a stand-alone inadmissibility ground in practice.

## G. Information for asylum seekers and access to NGOs and UNHCR

### 1. Provision of information on the procedure

#### Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?  Yes  With difficulty  No

❖ Is tailored information provided to unaccompanied children?  Yes  No

According to Article 74 paras 1 to 8 of the Asylum Code (Greek Law 4939/2022 ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons) applicants should be informed, in a language that they understand and in a simple and accessible manner, on the procedure to be followed, their rights and obligations, the consequences of the rejection of their application, as well as on the possibilities of challenging it.

The Asylum Service assists applicants in understanding an information document provided upon registration, explaining basic rights and obligations of applicants deriving from the procedure. and state whether they have actually understood its contents. A copy of the document is provided to the applicant while one with the applicant's signature is kept in the applicant's file. Detailed information can be found at the website of the Ministry of Migration and Asylum.<sup>814</sup>

Interpretation, (or tele-interpretation using appropriate technical means when the physical presence of the interpreter is not possible) is provided during the submission of the application for international protection, as well as in all the stages of the examination of the asylum application, meaning both in first and second instance as long as the necessary communication cannot be ensured without an interpreter. The cost of interpretation is borne by the State where it is demonstrably impossible to provide interpretation in the

para 12; 22148/2023, 13 January 2023, para 9; 734754/2022, 7 December 2022, para 10; 14th IAC, IP/335367/2023, 6 December 2023, p. 23; 250567/2023, 3 May 2023, p. 28; 211179/2023, 11 April 2023, p. 28; 18th IAC, 672919/2022, 11 November 2022, p. 7; 165716/2021, 3 August 2021, p. 7; 165163/2021, 3 August 2021, p. 8; 68486/2021, 16 June 2021, p. 6; 19th IAC, 73674/2022, 8 February 2022, p. 18; 73459/2022, 8 February 2022, p. 12.

<sup>813</sup> GCR, HIAS Greece and RSA, *Greek Asylum Case Law Report 1/2021*, December 2021, available in Greek at: <https://bit.ly/4a96KE1>, *Greek Asylum Case Law Report 1/2022*, June 2022, available in Greek at: <https://bit.ly/3oLmN7P>, *Greek Asylum Case Law Report 2/2022*, December 2022, available in Greek at: <https://bit.ly/3RIPWRQ>, *Greek Asylum Case Law Report 1/2023*, June 2023, available in Greek at: <https://tinyurl.com/4envyz7v>, *Greek Asylum Case Law Report 2/2023*, December 2023, available in Greek at: <https://tinyurl.com/5456kvde>.

<sup>814</sup> See website of the MoMA, available at: <https://migration.gov.gr/gas/diadikasia-asyloy/>.



language of the applicant's choice. Interpretation shall be provided in the official language of the applicant's country of origin or in another language that the applicant is reasonably expected to understand, including international sign language.

All information regarding the operation and structure of the Reception and Identification Service, the operation of the Asylum Service and the Regional Asylum Offices, information and updates about the Asylum Procedure on first and second instance, as well as press releases and announcements pertinent to those who seek or have been granted international protection are available in Greek and English at the Ministry of Migration and Asylum's website.<sup>815</sup>

For accurate and timely dissemination of the latest update on asylum and migration issues, the Ministry has also created a Viber community.<sup>816</sup>

In 2020, the Ministry of Migration and Asylum also launched a new platform,<sup>817</sup> where applicants and beneficiaries of international protection, as well as their representatives, can proceed to the following actions:

- ❖ Schedule an appointment with the competent Regional Asylum Office
- ❖ Be informed on the renewal of international protection cards
- ❖ Apply for change of personal data and contact information
- ❖ Submit application for separation of files
- ❖ Submit application to request statement of application status
- ❖ Submit application to postpone/ expedite the interview date
- ❖ Submit additional documents
- ❖ Request for copies of personal file
- ❖ Apply for legal aid at second instance
- ❖ Apply for notification of ΠΑΑΥΠΑ (Provisional Social Security and Health Care Number)
- ❖ Apply for notification of Tax Registration Number

Although these initiatives were supposed to make the Asylum Service accessible to everyone, as well as to avoid congestion and long waiting queues outside the Regional Asylum Offices, especially during the pandemic, the adjustment of the applicants and beneficiaries to this new reality was not easy, and at times, simply not possible. The main difficulty was the actual access to the platform, since many of the persons of concern were either illiterate or technologically illiterate. This issue, combined with the fact that the Asylum Offices did not serve requests that could be submitted through the online system, eventually excluded many applicants and beneficiaries from those services. Using the platform to request for copies or to make appointments with the asylum service is currently mandatory. Therefore, persons visiting the Asylum Offices are denied access and are referred to the platform. The need for improvement and for the provision of alternative solutions was raised by several NGOs through a letter addressed to the National Commission of Human Rights in December 2021.<sup>818</sup> In 2022, Amnesty International also drew attention to the fact that the platform is still not available in all languages, the initial menu is only in Greek and English, and there is a special section for refugees from Ukraine, which is an obvious discrimination against the rest of the refugee population considering more information is made more easily accessible to user of Ukrainian origin.<sup>819</sup>

Moreover, legal aid for the appeals procedure must be requested via the electronic application of the Ministry for Migration and Asylum, which significantly hinders access for those not familiar with the use of electronic applications or who do not have access to the required equipment/internet.<sup>820</sup> Moreover, in practice the Head of the RICs on the islands and Evros and the Head of Pre-removal detention facilities

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<sup>815</sup> See: <https://bit.ly/39WDeDR>.

<sup>816</sup> See: <https://bit.ly/3J1xTKx>.

<sup>817</sup> See: <https://bit.ly/3tLovGq>.

<sup>818</sup> Letter signed by 14 NGOs communicated to the National Commission of Human Rights on 16 of December 2021, not available online.

<sup>819</sup> Amnesty International, ΠΡΟΣΒΑΣΗ ΣΤΟ ΑΣΥΛΟ (ΚΑΠΟΙΕΣ ΕΠΙΣΗΜΑΝΣΕΙΣ), 30 June 2022, available in Greek at: <https://bit.ly/3WtfkXV>.

<sup>820</sup> The electronic application platform for legal aid and other applications relevant to the asylum procedure is available at: <https://bit.ly/3BPGrCV>.

in Athens (Amigdaleza and Tavros) notify applicants of first instance decisions. In both cases, the inability of the applicants to understand the content of the communicated documents and the procedure has been reported.

For those detained and due to the critically insufficient interpretation services provided in detention facilities, access to information is even more limited. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)'s report to the Greek Government, foreign nationals detained in facilities across the country are deprived of their right to be informed about their rights in a language they could understand. According to the delegation, "a two-page information leaflet (Δ-33 form) detailing the rights of detained persons was generally available and pinned to the wall in various languages in most police stations visited, none of the persons interviewed by the CPT's delegation had obtained a copy of it". Furthermore, the detainees complained that "they had signed documents in the Greek language without knowing their content and without having been provided with the assistance of an interpreter".<sup>821</sup> These findings remain valid in 2023.

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) held talks with the Minister and Deputy Minister of Citizen Protection and senior officials responsible for prison matters in Athens on 23 and 24 October 2023 in light of the Committee's decision in March 2022 to open the procedure which may lead to the adoption of a Public Statement under Article 10, paragraph 2, of the Convention regulating the CPT. A delegation of the CPT also carried out an *ad hoc* visit to Greece from 21 November to 1 December 2023 and the relevant report is pending to date.

The same issue is raised in the subsequent CPT report published in November of 2020, in which the Committee refers to migrants held in the two cells in the Coastguard premises, who "were not even provided with the notification on detainees' rights in a language they could understand". Use of fellow detainees as interpreters is a practice that, according to the Committee, should be avoided. The delegation reports that "[...] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer. The provision of legal advice for issues related to detention and deportation was generally inadequate in all the detention places visited, including the Filakio RIC and the Filakio pre-departure centre. As a result, detainees' ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer".<sup>822</sup> Similar observations were made by the Council of the European Union after the 2021 evaluation and its recommendations to the Greek Government that followed.<sup>823</sup> and were reported once again in a legal note issued in June 2022 by the NGO Refugee Support at the Aegean (RSA).<sup>824</sup>

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<sup>821</sup> CPT, *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 March to 9 April 2019*, CPT/Inf (2020) 15, April 2020, available at: <https://bit.ly/3MDGG8Z>, para. 100.

<sup>822</sup> CPT, *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 of March 2020*, CPT/Inf (2020) 36, Strasbourg, 19 November 2020, available at: <https://bit.ly/3quLJ4r>, paras 22 -23.

<sup>823</sup> Council of the European Union, *Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of Greece on the application of the Schengen acquis in the field of return*, 9 November 2021, available at: <https://bit.ly/3BVJWYB>.

<sup>824</sup> RSA, *Persisting systematic detention of asylum seekers in Greece*, June 2022, available at: <https://bit.ly/3qcFGkD>.

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No

Access of NGOs to Reception and Identification Centres, camps on the mainland and pre-removal detention facilities is subject to prior permission by the competent authorities. Article 78 of the Asylum Code (Greek Law 4939/2022 ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons) provides for the obligation of all Greek and International Organisations of Civil Society active in the field of refugee support and protection as well as their members to register in the established Registry of Greek and Foreign Non-Governmental Organisations (NGOs) in the Special Secretariat for the Coordination of Involved Agencies of the Ministry of Immigration and Asylum.

NGOs that meet the minimum necessary conditions for participation as provided in the Asylum Code are registered by the competent service. Non-profit organisations, voluntary organisations and any corresponding organisation, Greek or international, that is not registered in the registry, may not participate in the implementation of international protection, immigration and social integration actions within the Greek territory, and in particular in the provision of legal, psychosocial and medical services.

The Law also provides of an additional Registry of Members of Non-Governmental Organisations (NGOs) active in matters of international protection, immigration and social integration, in which the members, employees and partners of the above-described categories of organisations active in Greece are registered. The registration of these persons in the Registry and their certification is a necessary condition both for their activity within the Greek territory and for their cooperation with public bodies.

In practice employees of NGOs and members whose name is not provided for in the registry are banned from entering places of detention and reception facilities under the Ministry's responsibility. GCR is aware of several instances when access was refused to interpreters and on occasion lawyers or were obliged to wait for several hours before they were granted permission to enter.

Concerning the lawfulness of these new registration requirements, ECRE's Expert Opinion upon request from the ELENA Coordinator in Greece, published in December 2021,<sup>825</sup> emphasizes that the registry has been heavily criticised by civil society organisations,<sup>826</sup> the Council of Europe,<sup>827</sup> and in the context of UN

<sup>825</sup> ECRE, *Expert Opinion upon request from the ELENA Coordinator in Greece concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece*, December 2021, available at: <https://bit.ly/3yvt6xc>.

<sup>826</sup> Amnesty international, *Greece: Regulation of NGOs working on migration and asylum threatens civic space*, 31 July 2020, available at: <https://bit.ly/3rsGjVW>; RSA, *Risk of Repression: New Rules on Civil Society Supporting Refugees and Migrants in Greece*, available at: <https://bit.ly/31dyTLH>, p. 3; RSA, *Repression Continued: Greece Further Restricts Civil Society Supporting Refugees and Migrants*, September 2020, available at: <https://bit.ly/3J0OL6N>; HIAS Greece, *Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece*, 8 May 2020, available at: <https://bit.ly/3OYVm5E>.

<sup>827</sup> CoE Commissioner for Human Rights, *Letter of Commissioner for Human Rights*, 3 May 2021, available at: <https://bit.ly/3MSLWGb>; Council of Europe, *Expert Council on NGO Law of the Conference of INGOs, Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, 6 July 2020, available at: <https://bit.ly/3WP56RL> and Addendum to that opinion, 23 November 2020, available at: <https://bit.ly/3NcGpeU>.

Special Procedures,<sup>828</sup> and it has also been the subject of a question at the European Parliament.<sup>829</sup> The criticism focuses on the lack of meaningful public consultation before the adoption of the framework, the excessive requirements for registration/certification, which serves as a precondition for NGOs to be able to operate in Greece in the field of international protection, migration and social inclusion, the introduction of seemingly unlimited discretion to deny registration or remove NGOs from the registry on the basis of vague criteria, and the absence of effective remedies. According to the reports, such a framework can interfere with the freedom of association by establishing a situation of legal uncertainty and restricted guarantees that could create significant obstacles in the free development of NGO activities in Greece. As of October 2021, at least three refugee-assisting organisations have been denied registration. The Greek Ombudsman has since called for the re-examination of the rejection decision as it found that it resulted in violation of national, EU and international law.<sup>830</sup> An annulment application was lodged by Equal Rights Beyond Border and HIAS Greece before the Council of State against JMD 10616/2020 establishing the aforementioned NGO Registry and is still pending before the Council of State.<sup>831</sup> On 6 November 2023, RSA requested statistical data on the number of organisations and individuals approved, rejected and/or de-registered from the Registry since its establishment, yet the request received no reply by the MoMA.<sup>832</sup>

UNHCR is present in **Athens, Lesvos, Chios, Samos, Kos, Thessaloniki**, covering through physical presence, field missions and *ad hoc* visits all sites in their area of responsibility.<sup>833</sup> UNHCR's teams continue to assist new arrivals by helping them gain access to necessary services, and by providing them with information on procedures, rights and obligations.

Asylum seekers can access UNHCR as well as other organisations through a variety of means. UNHCR has established the UNHCR HELP Website providing information on how to apply for asylum, cash assistance, family reunification, access to employment as well as a UNHCR WhatsApp automatic information system. and UNHCR Protection HelpDesk<sup>834</sup> Helplines are also provided depending on the refugees whereabouts providing information and assistance.<sup>835</sup> After the Covid pandemic several helplines and helpdesks were established by the majority of actors allowing asylum seekers and recognised refugees to access information and services remotely.<sup>836</sup>

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<sup>828</sup> OHCHR, *Letter to Greece by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants*, 31 March 2021, available at: <https://tinyurl.com/y5mnekua>.

<sup>829</sup> European Parliament, *Follow-up to the letter from the Committee on Civil Liberties, Justice and Home Affairs regarding Greece's NGO registration law (JMD 10616/2020)*, 16 October 2020, available at: <https://rb.gy/7kt7jr>.

<sup>830</sup> RSA, *Ombudsman calls for re-examination of rejection of RSA's registration on the NGO Registry*, 13 December 2021, available at: <https://bit.ly/3MSpU7o>.

<sup>831</sup> For more information, see Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report, *Rule of Law Backsliding Continues in Greece*, January 2023, available at: <https://tinyurl.com/54h5wr88>, paras 69-74.

<sup>832</sup> Vouliwatch *et al.*, *Greece in Institutional Decline: Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report*, January 2024, available at: <https://tinyurl.com/29tusvpv>, para. 121.

<sup>833</sup> UNHCR, *About UNHCR in Greece*, available at: <https://bit.ly/428wpYa>.

<sup>834</sup> UNHCR, *Information on the road with you*, available at: <https://bit.ly/3BQAK7V>.

<sup>835</sup> See UNHCR, *Contact us*, available at: <https://bit.ly/3MvAsYT>.

<sup>836</sup> *i.e.*, National service map, available at: <https://bit.ly/3QdLFQz>; City of Athens, *Targeted support and assistance to asylum seekers and beneficiaries of international protection with disabilities*, available at: <https://bit.ly/3ICrSpX>, and Caritas ADAMA center, available at: <https://bit.ly/3BT7YDn>; GCR Helpline, information available at: <https://bit.ly/3WvGyNo>; EPAPSY Psychosocial Support (PSS) Helpline, KEM Athens heldesk, Refugee.Info website - Facebook HelpLine, Lighthouse Relief Helpline & Information point, CARITAS Social Spot at Neos Kosmos.

## H. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded?  Yes  No  
❖ If yes, specify which: Syria
2. Are applications from specific nationalities considered manifestly unfounded?<sup>837</sup>  Yes  No  
❖ If yes, specify which:  
Egypt, Albania, Algeria, Armenia, Georgia, Gambia, Ghana, India, Morocco, Bangladesh, Benin, Nepal, Pakistan, Senegal, Togo, Tunisia

Since 2014 up until the first half of 2021, Syrians and stateless persons were channeled into a fast-track procedure often resulting in the granting of refugee status. This applied to those with a former residence in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the Reception and Identification Procedure; provided that the EU-Türkiye Statement and the Fast track border procedure did not apply to their cases. However, the Joint Ministerial Decision 42799/2021 issued in June 2021, pursuant to Article 86 of L. 4636/2019, already replaced by Article 92 of the Asylum Code, established that Türkiye is to be considered safe for applicants from Syria, Afghanistan, Pakistan, Bangladesh and Somalia. As a result, applications lodged by nationals of the above-mentioned countries are now channelled into the [admissibility procedure](#) upon arrival, to assess whether Türkiye is a [safe third country](#) and whether their cases are admissible and should be examined on the merits.

Also, although the [fast-track border procedure](#) was initially introduced as an exceptional and temporary procedure, it has become the rule for the applicants residing in Lesbos, Samos, Chios, Leros, and Kos.

Legislation also provides for the application of the [Safe Country of Origin](#) concept to consider applications manifestly ill-founded unless specifically proven otherwise by the person of concern. Article 92 of the Asylum Code (replacing by codification article 87 of Law 4636/2019, according to Articles 36 - 37 of 2013/32/EE Directive) authorises for the relevant Ministry to include such countries of origin in a National List of Safe Countries of Origin, by way of Joint Ministerial Decisions. Joint Ministerial Decision 78391 (ΦΕΚ Β' - 667/ 15.02.2022),<sup>838</sup> of the Ministry of Migration and Asylum and external Affairs (replacing JMD 778/20.1.2021) designated as safe countries of origin, Egypt, Albania, Algeria, Armenia, Georgia, Gambia, Ghana, India, Morocco, Bangladesh, Benin, Nepal, Ukraine, Pakistan, Senegal, Togo, Tunisia. The Decision was amended in November 2022 by JMD 708368 / 25.11.2022 in order to exclude Ukraine from the list.

Differential treatment according to nationality was repeatedly reported since the initiation of temporary protection for Ukrainian Nationals in April 2022. The Greek Government seemed to openly discriminate in favour of asylum seekers of Ukrainian origin against all other nationalities. Human Rights Watch reported on Greece's migration Minister, addressing the parliament in March mentioning that Ukrainians are "real refugees," while those arriving from Syria or Afghanistan are "irregular migrants," even though many Syrians and Afghans have valid refugee claims.<sup>839</sup> The same attitude was noted and criticised by GCR, Oxfam and Save the Children in May 2022, who described in detail the many ways in which Greece's welcome of people fleeing Ukraine stands in stark contrast with others seeking safety.<sup>840</sup> Amnesty International also commented on the fact.<sup>841</sup> Ukrainian nationals were provided with specific facilitations and a particular asylum procedure based on their nationality simpler and less time consuming, contrary to all other asylum seekers including immediate access, 24-hour information through the Ministry's hotline for Ukrainian nationals as well as special status – a temporal protection residence permit, which was provided immediately after the application for the duration of one year (see [Temporary protection annex](#)).

<sup>837</sup> Whether under the 'safe country of origin' concept or otherwise.

<sup>838</sup> Available only in Greek at: <https://bit.ly/3MUZJgG>.

<sup>839</sup> HRW, *World Report 2023- Greece, events of 2022*, 2023, available at: <https://bit.ly/3IDr3gy>.

<sup>840</sup> GCR Oxfam & Save the Children, *Greece: A two-tier refugee system*, May 2022, available at: <https://bit.ly/3q6DtHD>.

<sup>841</sup> Amnesty International, *ΠΡΟΣΒΑΣΗ ΣΤΟ ΑΣΥΛΟ (ΚΑΠΟΙΕΣ ΕΠΙΣΗΜΑΝΣΕΙΣ)*, 30 June 2022, available in Greek at: <https://bit.ly/3WtfxXV>.

### Short overview of the reception system

In May 2018, L 4540/2018 transposed the recast Reception Conditions Directive into national law, almost three years after the transposition deadline. In 2019, L. 4540/2018 was replaced by the IPA (L. 4636/2019), which entered into force on 1 January 2020 and was amended with a series of laws (*inter alia* L. 4686/2020 and L. 4825/2021). The IPA constituted a uniform legislation for the provisions of reception, asylum procedure and recognition of international protection incorporating the relevant EU (recast) Directives (Directive 2013/33/EU, Directive 2013/32/EU and Directive 2011/95/EU).

On 10 June 2022, the IPA (Articles 1-112 and 114) was also replaced by L 4939/2022 (Asylum Code), which constitutes a codification of legislation on reception, international protection of third country nationals and stateless persons, as well as on temporary protection in the event of a mass influx of displaced persons, which was incorporated as per the provisions of P.D. 80/2006 (A' 82), following the Council Implementing Decision (EU) 2022/382. Lastly, after the replacement of L. 4554/2018 on guardianship – which was never implemented – by L. 4960/2022 on the National Guardianship System and Framework of Accommodation of Unaccompanied Minors (UAMs),<sup>842</sup> which entered into force on 22 July 2022, the relevant provisions of L. 4960/2022 were also incorporated in the Asylum Code.

Under the Asylum Code, the Reception and Identification Service (RIS) within the Secretariat General of Reception of Asylum Seekers under the Ministry of Migration and Asylum (MoMA) is defined as the authority responsible for reception.<sup>843</sup> The Special Secretary for the Protection of Unaccompanied Minors (SSPUM), which was established under the MoMA in February 2020,<sup>844</sup> competent for the protection of UAM, including for their accommodation, and also for the guardianship of UAMs, was abolished in June 2023. Its responsibilities (under article 39 of P.D. 106/2020) were transferred to the new General Secretariat for Vulnerable Persons and Institutional Protection (GSVP) established with article 6(1) of P.D. 77/2023 (A' 130/ 27.6.2023), falling under the competency of the Deputy Minister of Migration and Asylum<sup>845</sup>. The new General Secretariat is also competent for the National Referral Mechanism, according to article 66/ΑΓ Asylum Code added with article 39 of L. 4960/2022.

With regard to the composition of the reception system, a substantial change occurred in 2022, when the ESTIA accommodation scheme was terminated. ESTIA provided rented housing to vulnerable asylum applicants in the context of reception. The scheme, which since January 2021 had been operating under the sole responsibility of the MoMA,<sup>846</sup> was terminated at the end of 2022, amidst increased concerns for former residents, such as families that had already started the integration process and children who were enrolled to school, who upon exiting ESTIA, were frequently left to their fate or on the streets or forced to interrupt their education (school).<sup>847</sup> The programme's termination, which had been announced by the MoMA in February 2022,<sup>848</sup> also signified the transformation of Greece's reception system into one exclusively modelled on camp-based accommodation, with very few exceptions concerning in particular UAM (e.g., shelters and SILs).

In 2023, island CCACs and mainland camps, remained the dominant forms of reception. From 1 January to 30 September 2022, there were 18,046 referrals for reception to the RIS. Of these, 8,502 (47%) were made by the Asylum Service, 6,900 (38%) by the Police, 1,591 (9%) by Social Support or Protection

<sup>842</sup> L 4960/2022 *National Guardianship System and Framework of Accommodation of UAMs and other provisions under the jurisdiction of the MoMA*.

<sup>843</sup> Article 1(ιστ') Asylum Code.

<sup>844</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

<sup>845</sup> MoMA, *Webpage of the General Secretariat for Vulnerable Persons & Institutional Protection*, available at: <https://tinyurl.com/2sspd4xx>.

<sup>846</sup> See, e.g., MoMA, *Press Release on ESTIA 2021*, February 2021, available in Greek at: <https://bit.ly/3uwgpxX>.

<sup>847</sup> EfSyn, *Ανέστιοι πρόσφυγες χωρίς το ESTIA*, 24 December 2022, available in Greek at: <https://bit.ly/3YYaWjw>; News24/7, *The government threw mothers with underage children on the streets*, 10 December 2022, available in Greek at: <https://bit.ly/3lFktO2> and GCR, *Evictions, Homelessness and setbacks to integration*, 30 November 2022, available in Greek at: <https://bit.ly/3S9uwHz>.

<sup>848</sup> MoMA, *ESTIA II to be completed in 2022*, 22 February 2022, available in Greek at: <https://bit.ly/3iGewf1>.

Services (SSPUM / NCSS) and 1,053 (6%) by health services<sup>849</sup>. Relevant data for 2023 are not available up to the time of writing.

During 2023, the RIS registered a total of 55,875 persons, the vast majority of whom (41,790) were registered in the border RICs of Lesbos, Samos, Chios, Leros, Kos and Fylakio, Evros, and the rest (14,085) in the mainland RICs of Malakasa and Diavata. Of the total of those registered, the vast majority were boys and men (40,425), of whom 7,445 were aged between 0-17; 15,784 between 18-25; 9,545 between 26-33; 4,354 between 41-60; and 198 were 61 years or older. Women and girls accounted for close to 28% (15,450), of whom 5,053 were under the age of 18; 4,197 were between 18-25; 3,123 between 26-33; 1,534 between 34-40; 1,355 between 41-60; and 188 were 61 years or older.<sup>850</sup>

Close to 15% (8,104) of all those registered were registered as vulnerable, of whom the majority were single parent households (2,569), followed by UAM (2,364), victims of violence/abuse (2,115), pregnant or lactating women (519), persons with disabilities (246), elderly persons (177), and victims of trafficking (114).<sup>851</sup>

Most of those registered at the borders (total of 41,790) were from Syria (29.47%), Afghanistan (18.71%), Palestine (15.77%), Somalia (6.82%) and Türkiye (5.08%), followed by persons from more than 50 nationalities, including stateless persons (0.55%).<sup>852</sup> Of those registered in the mainland RICs, the majority were from Iraq (33.68%), followed by nationals of Syria (16.61%), Afghanistan (9.93%), Pakistan (7.01%), and Egypt (6.56%), with the remainder being likewise from a combination of more than 50 nationalities, including stateless persons (0.04%).<sup>853</sup>

## A. Access and forms of reception conditions

### 1. Criteria and restrictions to access reception conditions

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow access to material reception conditions for asylum seekers in the following stages of the asylum procedure?
 

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
  
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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Article 59 (1) Asylum Code provides that the competent authority for the reception of asylum seekers in cooperation with competent government agencies, international organisations and certified social actors shall ensure the provision of material reception conditions. These conditions must 'secure an adequate

<sup>849</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Statistics - Referrals 2022*, see: <https://bit.ly/3OuNZm9>.

<sup>850</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registrations 12 months 2023*, available in Greek at: <https://tinyurl.com/ytfkhkfu>, pp. 1 and 14; and *Registrations 12 months mainland 2023*, available in Greek at: <https://tinyurl.com/48jc9u7x>, pp. 1 and 8.

<sup>851</sup> *Ibid*, p.7 and p. 5 respectively.

<sup>852</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registrations 12 months 2023*, available (Greek) at: <https://tinyurl.com/ytfkhkfu>, pp. 17-19.

<sup>853</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registrations 12 months mainland 2023*, available (Greek) at: <https://tinyurl.com/48jc9u7x>, pp. 11-12.

standard of living for asylum seekers that ensures their subsistence and protects their physical and mental health, based on the respect of human dignity'. As per the same article, the same standard of living is to be guaranteed for asylum seekers in detention. Special care is to be provided for those with special reception needs.<sup>854</sup>

Article 44 Asylum Code states that, during the reception and identification procedures, the Director (*Διοικητής*) and staff of the RIC or CCAC must ensure that third country nationals or stateless persons: a) live in decent living conditions, b) maintain their family unity, c) have access to emergency health care and necessary treatment or psychosocial support, d) receive the appropriate treatment, in case they belong to vulnerable groups, particularly if they are UAM or persons with disabilities, e) are sufficiently informed about their rights and obligations, f) have access to guidance and legal advice and assistance, g) maintain contact with institutions and civil society organisations active in the field of migration and human rights that provide legal or social assistance and h) have the right to communicate with their relatives and loved ones.

Asylum seekers are entitled to reception conditions from the time they submit an asylum application and throughout the asylum procedure. As regards children, reception conditions apply to minors, unaccompanied or not, and to separated minors, regardless of whether they have submitted an application for international protection.<sup>855</sup> In case of status recognition, reception conditions are terminated (with a few exceptions) within 30 days of the notification of the positive decision. In the specific case of UAM, this time limit starts counting from the time they reach adulthood.<sup>856</sup>

The law also foresees that the provision of all or part of the material reception conditions presupposes that asylum seekers lack employment or that their employment does not provide them with sufficient resources to maintain an adequate standard of living that is sufficient to safeguard their health and sustenance.<sup>857</sup> The latter is examined in proportion to the financial criteria determining eligibility for the Social Solidarity Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, ΚΕΑ),<sup>858</sup> which was renamed to Minimum Guaranteed Income (*Ελάχιστο Εγγυημένο Εισόδημα*) in 2020.<sup>859</sup> The law also provides that reception conditions can be reduced or withdrawn following an individual and justified decision by the competent reception authority, based on the full set of grounds provided under article 20 of the (recast) Reception Directive, including if it is established that the applicant concealed their financial resources or if they have lodged a subsequent asylum application.<sup>860</sup>

That being said, delays in accessing reception continued to be reported in 2023, on account of chronic delays in accessing asylum on the mainland, which have persisted even after the substitution of the skype registration system with the MoMA's new electronic platform in the summer of 2022 (also see [Access to the procedure on the mainland](#)).<sup>861</sup> During the months preceding the new platform's operationalisation, and by contrast to temporary protection applications (who, with scarce exceptions, were all registered in a timely manner), access to asylum from the mainland for people who had not undergone first reception procedures became a near impossibility, leaving many applicants in a state of legal limbo. Yet, as noted elsewhere,<sup>862</sup> even after its operationalisation, the online platform has been frequently unavailable/not functioning and, when functional, it has been observed that appointments for the full registration of an

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<sup>854</sup> Article 59(1) Asylum Code.

<sup>855</sup> Article 37(1) and 62(3) Asylum Code.

<sup>856</sup> Article 109 Asylum Code.

<sup>857</sup> Article 59(3) Asylum Code.

<sup>858</sup> Article 235 L 4389/2016.

<sup>859</sup> Article 29 L. 4659/2020.

<sup>860</sup> Article 61 Asylum Code.

<sup>861</sup> MoMA, *Launch of the online application platform for asylum seeker registration appointments*, 13 July 2022, available in Greek at: <https://bit.ly/43PpBki>. For more on the skype system, see MIT, *Lives on Hold: Access to Asylum on Mainland Greece, Crete and Rhodes*, November 2021, available at: <https://bit.ly/3JQqBe2>. MIT, *Blocked from the system: Voices of people excluded from the asylum procedure on mainland Greece, Crete and Rhodes*, May 2022, <https://bit.ly/45wetd3>. MIT, *Statement on new registration asylum procedure*, 1<sup>st</sup> September 2022, available at: <https://bit.ly/3Ms6Onu>.

<sup>862</sup> GCR, Submission of The Greek Council for Refugees to the Committee of Ministers of the Council of Europe concerning the groups of cases of *M.S.S. v. Greece* (Application No. 30696/09) and *Rahimi v. Greece* (8687/08), July 2023, available at: <https://tinyurl.com/yhjfta5s>.



application are often granted many months later.<sup>863</sup> These delays, which have persisted in Malakasa RIC during the first months of 2024 as well,<sup>864</sup> have resulted in applicants' frequent inability to access asylum procedures for prolonged periods of time, during which they do not enjoy any of the rights granted to them by their status as applicants, including access to reception.

Most importantly, although the new platform serves the purpose of scheduling the registration of a person's will to apply for international protection and should thus be sufficient to establish a person's status as an asylum applicant, the ongoing practice by the MoMA not only fails to recognise recourse to the platform as tantamount to a person expressing their will to apply for asylum, but on the contrary, the attestation granted through the platform clearly states that it does not amount to proof of such will. As increasingly observed by GCR's Legal Unit, during 2023, this has frequently resulted in the arbitrary use of detention for the purpose of returning people who had already registered their will to apply for asylum via the platform. In at least eight cases represented by GCR in 2023, most of which concerned applicants from Afghanistan, competent First Instance Administrative Courts have also ruled that upon requesting the scheduling of the registration of an application for international protection via the platform, the persons concerned receive the status of an asylum applicant, as per the law. Yet instead of reviewing the practice, the Greek authorities filled a request for the first such Decision to be revoked before the Administrative Court of Kavala. The application for revocation was rejected as inadmissible by the Court.<sup>865</sup> A petition for violation of EU law on the same issue has been filed by the GCR since December 2022 (CHAP(2022)03534), and is pending before the European Commission.<sup>866</sup>

Lastly, a new, severely worrying practice identified as of early 2024 in the **Samos** CCAC, where amidst increased arrivals people have been residing in deplorable conditions, raises further questions as to applicants' effective access to reception conditions. Namely, as observed in February 2024,<sup>867</sup> applicants are asked whether they would like to sign a solemn declaration stating that they do not wish to reside in the Samos CCAC or any other regional facility of the RIS, which in practice, seems to amount to being called to choose between prolonging their stay in a facility that utterly fails to meet reception standards, or renouncing their right to reception conditions, in order to be able to escape these conditions.<sup>868</sup> Moreover, based on the same observations, upon provided with this choice, applicants are not informed that, if they agree, they can lose access to the financial aid provided in the context of reception and, for those that may be granted international protection, to the Helios integration program, as both have a residency requirement strictly linked to ongoing stay in the Greek reception system. A similar practice has been observed in the **Evros** RIC, which since its operationalisation in 2013 has been exclusively functioning as a closed facility, albeit to the extent that GCR can be aware, applicants there are also called to sign that they have been informed, with the support of an interpreter, of the possible consequences of signing the aforementioned declaration.<sup>869</sup>

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<sup>863</sup> Also see RSA, *Registration of asylum applications in the new mainland RIC in Greece*, February 2023, available at: <https://tinyurl.com/3s32d73j>, pp. 5-6.

<sup>864</sup> As per information shared during the 22 February 2024 National Protection Working Group.

<sup>865</sup> An excerpt of the relevant decision (ΔΠρΚαβ AP516/2023) can be found in GCR, HIAS & RSA, *Greek Asylum Case Law Report: Issue 1/2023*, 5 July 2023, available (Greek) at: <https://tinyurl.com/pejs4m9m>, p. 57

<sup>866</sup> Also see GCR, *Administrative courts: The detention of asylum seekers pending full registration, to whom the Ministry of Migration & Asylum does not recognize the status of applicant, is illegal*, 21 March 2023, available at: <https://tinyurl.com/5n7arpsa>.

<sup>867</sup> Information acquired during the 15 February 2024 Legal Actors Working Group and re-confirmed during the 22 February 2024 National Protection Working Group.

<sup>868</sup> As further reported in February 2024 by legal aid actors under the newly established Border Legal Aid sub-working group, which covers the islands of Lesbos, Samos and Kos, the text of the solemn declaration is as follows: "I do not wish to be accommodated at the CCAC of Samos or any other regional service of RIS. I will live on my own and the address is..... and I have been informed of the consequences of my nonappearance before the examining authority". Information acquired on 12 March 2024.

<sup>869</sup> As per information *inter alia* shared during the CEAS sub-working group of 4 March 2024.

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2022 (in original currency and in €): € 150 (€ 75 if accommodation is catered)

Material reception conditions may be provided in kind or in the form of financial aid.<sup>870</sup>

With regards to the first, according to Article 60(1) of the Asylum Code, where accommodation is provided in kind, it should take one or a combination of the following forms:

- (a) Premises used for the purpose of accommodating applicants during the examination of an application for international protection made at the border or in transit zones;
- (b) Accommodation centres, which can operate in properly customised public or private buildings, under the management of public or private non-profit entities or international organisations and guarantee a suitable standard of living;
- (c) Private houses, flats and hotels, rented in the context of accommodation programmes implemented by public or private non-profit entities or international organisations.

In all cases, the provision of accommodation is under the supervision of the competent reception authority, in collaboration, where applicable, with other competent state bodies. The law provides that the specific situation of vulnerable persons, such as minors (accompanied and unaccompanied), people with disabilities, elderly people, single-parent households and pregnant women, should be taken into account in the provision of reception conditions.<sup>871</sup>

In practice, following the termination of the ESTIA accommodation programme in December 2022,<sup>872</sup> camp-based accommodation has become the only available accommodation provided under the Greek reception system. As of the end of 2023, facilities used for this purposes included mainly temporary accommodation camps, initially designed as emergency accommodation facilities, and RICs in Evros, Malakasa and Diavata, on the mainland, as well as Closed Control Access Centres (CCACs) operating –under EU funding– on the Eastern Aegean islands, where asylum seekers have continued being contained in prison-like conditions.<sup>873</sup> The “*detention-like nature*” of island facilities was also noted by the EU Ombudsperson in the context of an own-initiative inquiry regarding the use of EU funds in the CCACs.<sup>874</sup>

To be noted, this new camp-based model of reception, which *inter alia* fosters conditions of social isolation for applicants, stands in stark contrast to the model promoted by the former ESTIA accommodation programme, which positive impact had been noted by local communities as well.<sup>875</sup> It also challenges Greece’s ability to comply with obligations arising vis-à-vis vulnerable applicants with special reception

<sup>870</sup> Article 59(1) Asylum Code.

<sup>871</sup> Article 62(1) Asylum Code in connection with article 1λγ’ Asylum Code regarding the definition of ‘*vulnerable persons*’ in a non-exhaustive manner.

<sup>872</sup> For more, AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/4cc0a07>, p. 147ff.

<sup>873</sup> Greek Council for Refugees / OXFAM / Save the Children International, *Greece: A two-tier refugee system*, Bi-monthly bulletin, May 2022, available at: <https://bit.ly/3OJOetv>.

<sup>874</sup> EU Ombudsperson, *Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 11 July 2022, available at: <https://tinyurl.com/yckyjef3>.

<sup>875</sup> For instance, as noted in January 2023 by the President of the Developmental Agency (Anaptyxiaki) of Irakleio, Crete, and Mayor of Archanes Asterousia, Crete, ‘[t]he framework, the rules and the whole organisation of the hospitality [under ESTIA] was exemplary and gave no room to the xenophobia that was initially expressed’. Ekriti, *Crete: An end to the hospitality program for refugees*, 2 January 2023, available in Greek at: <https://bit.ly/3IEwj4h>.

needs,<sup>876</sup> despite the reported willingness of the European Commission to continue the programme's funding in the context of supporting alternative modes of accommodation to camps.<sup>877</sup>

In what concerns provision of material reception conditions in the form of financial aid, under the ESTIA II-CBI programme, the beneficiaries of such aid are:<sup>878</sup>

- ❖ Adult asylum seekers who have submitted or fully lodged an asylum application in accordance with article 65 (1)(2) & (7) L. 4636/2019, as long as they reside in the centres and facilities provided under para. 4 article 8 L. 4375/2016, in accommodation programmes of the MoMA, in shelters and hospitality centres operated by international organisations and legal entities governed by public law, local authorities, as well as civil society actors that are registered in the Registry of Greek and foreign NGOs of the MoMA. Applicants in detention are not entitled to the cash-based support.
- ❖ Beneficiaries of international protection who upon turning 18 reside in accommodation centres for UAM or in temporary accommodation spaces for UAM, for a period of three months following their placement to the aforementioned accommodation spaces.

In both cases, the new residency requirement as a pre-condition for receiving financial aid took effect on 1 July 2021, after first being announced through Press Releases issued by the MoMA in April and May 2021,<sup>879</sup> and subsequently introduced in ministerial decisions in July and September.<sup>880</sup> As per the new framework, financial aid is provided to those eligible at the end of each month, as long as it can be certified that they continue to reside in facilities operating under the MoMA (*i.e.*, facilities of the reception system). Applicants who are not accommodated in these facilities need to first apply, then be referred to and lastly placed in such accommodation, before the procedure for accessing financial aid can (re)start.<sup>881</sup>

The decision to interrupt cash assistance to asylum applicants not accommodated in the reception system raised significant concerns, *inter alia* because it amounted to the withdrawal of material reception conditions for an estimated 25,000 asylum applicants,<sup>882</sup> without any personalised assessment or reasoned decision, thus potentially also amounting to a violation of article 20 of Directive 2013/33/EU (as transposed by article 57 IPA, which was afterwards replaced by article 61 Asylum Code). Furthermore, as highlighted by 30 civil society organisations in a joint statement published in June 2021,<sup>883</sup> the decision came at the detriment of integration. In practice, many of those affected were called to abandon a place of residence of their own choice –which they were able to sustain with the cash-based support– and to abandon their communities and friends, in order to return to camps, where they would have to be in isolation from society. The decision also failed to take into consideration the protection risks that could arise at least for some in the context of suddenly having to share accommodation in a camp. As observed,<sup>884</sup> applicants from some communities ended up preferring losing the financial support out of fear that residence in a camp would expose them to risks connected with their fear of persecution. It lastly

<sup>876</sup> For the closure of ESTIA, see among others: RSA, *A Step backwards for protection and integration: On the termination of the ESTIA II housing programme for asylum applicants*, 22 December 2022, available at: <https://bit.ly/43vr3Y5>; GCR, Press Release, *Εξώσεις, αστεγία και πτωχόρισμα στην ένταξη*, 30 November 2022, available in Greek at: <https://bit.ly/3oBev2B>; FENIX, *Closure of ESTIA II: thousands of extremely vulnerable asylum seekers to be left without humane and adequate accommodation and proper care*, 31 October 2022, available at: <https://bit.ly/43nPgZ0>.

<sup>877</sup> Fenix, *Closure of ESTIA II: a political choice behind its closure*, December 2022, available at: <https://bit.ly/3VbYagQ>.

<sup>878</sup> Article 1(d) Ministerial Decision 115202/2021, *op.cit.*

<sup>879</sup> MoMA, *The financial assistance to international protection applicants that are not accommodated in facilities under the responsibility of the MoMA or MoMA partners is abolished from 1/7/21*, 15 April 2021, available in Greek at: <https://bit.ly/3IEvEgX> and *Pre-requisites for the disbursement of financial assistance to international protection applicants*, 25 May 2021, available at: <https://bit.ly/3IDe5xx>.

<sup>880</sup> Ministerial Decision 115202/2021 *op.cit* and JMD 2857/2021 Amending JMD 2089/16-07-2021 on a 'Common Framework for Managing Programmes that are assigned to the Special Secretariat for the Coordination and Management of Programmes under the Asylum, Migration and Integration Fund and the Internal Security Fund and other resources and are not financed through National Programmes' (B' 3120), Gov. Gazette 4496/29-09-2021.

<sup>881</sup> Annex III, JMD 2089/16.7.2021 as amended by JMD 2857/29.9.2021.

<sup>882</sup> Estimates provided by UNHCR in the protection working group of 7 June 2021.

<sup>883</sup> Joint Statement, *A big setback in integration: The cut in aid to asylum seekers*, 24 June 2021, available at: <https://bit.ly/3qMKIBV>.

<sup>884</sup> As per information shared in the national protection working group of 7 June 2021.

also failed to take into consideration the severely limited capacity of NGOs – which were in practice called to implement the decision– to support their beneficiaries as part of the transition.

With regards to distribution, in December 2023, a total of 9,967 asylum applicants (6,267 households), half of whom were reported as residing in RICs and half in temporary accommodation Centers, received financial aid throughout Greece.<sup>885</sup> This amounts to less than a third of asylum applications reported as pending at first (29,885) and second (2,845) instance by the MoMA in the same month,<sup>886</sup> and to less than two thirds of people reported by the MoMA as residing in the Greek reception system during the same month (17,115).<sup>887</sup> Much like in the previous year,<sup>888</sup> this highlights an ongoing gap vis-à-vis applicants' access to financial aid, which given the significant difference between the number of first and second instance applications pending at the end of 2023 (32,730), and the total number of persons accommodated in the Greek reception system (17,115) during the same period –not all of whom were necessarily in an asylum procedure– seems to be attributable to a large degree to the aforementioned residency requirement that took effect in July 2021. Other factors explaining this gap are faster asylum processing times, which have continued leading to people losing eligibility, either due to a positive or negative decision being issued before they could access this type of aid, as well as further obstacles on account of the *de facto* detention practices observed on the islands.

Namely, as noted in the previous update of the present report,<sup>889</sup> in **Kos**, since the cash support programme was handed over to the MoMA, nearly all applicants on the island had stopped receiving this type of material reception support and, importantly, were no longer informed by the RIS of their right to receive it. By the end of 2023, based on GCR's presence on the island, this issue seems to have been resolved to a significant extent, following the designation of a competent RIS official for this purpose, which in GCR's experience has resulted in most applicants requesting access to financial aid, also receiving it. However, the ongoing requirement for applicants to hold a Greek phone number in order to be able to request cash support, –which presupposes that they have the ability to exit the CCAC in order to procure such a number– in conjunction with the ongoing *de facto* detention regime applied to newcomers for up to 25 days, and at times for more than a month until they can receive their applicant card and be allowed to exit the CCAC, continued leading to delays with respect to applicants' access to this form of material reception.

Of the 9,967 applicants who received financial aid in December 2023, the majority were from Afghanistan (23%), followed by Syrians (21%), nationals of Somalia (10%), Sierra Leone (9%), the DRC and Eritrea (7% each), and lastly Iraq (4%) and Cameroon (3%). Another 16% of beneficiaries were from a combination of other nationalities. The majority of beneficiaries (55%) were between 18-34 years of age, followed by those between 0-13 (24%), and those between 35-64 (17%), with another 4% being between the age of 14-17 and less than 2% being 65 years of age or older. With the exception of the latter two categories, which are characterised by an equal proportion of male and female beneficiaries, in all other cases the majority of beneficiaries were men. No disaggregated data on the family situation of the applicants was published.<sup>890</sup>

The amount distributed to each household is proportionate to the size of each household and differs depending on whether the accommodation provided is catered or not. The financial sums in 2023 remained the same as the ones distributed since 2021, ranging from €75 for single adults in catered accommodation, up to a €420 ceiling for a family of four or more residing in self-catered accommodation.<sup>891</sup> In general terms, the sum provided is significantly lower than what is provided under

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<sup>885</sup> MoMA, *Factsheet December 2023: Programme 'Financial assistance to applicants of international protection'*, December 2023, available in Greek at: <https://tinyurl.com/ysjv4c33>.

<sup>886</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 11a.

<sup>887</sup> *Ibid.*, table 6.

<sup>888</sup> AIDA, *Country Report Greece: 2022 Update*, op.cit., p. 149

<sup>889</sup> AIDA, *Country Report Greece: 2022 Update*, op.cit., p. 150.

<sup>890</sup> MoMA, *Factsheet December 2023*, op.cit.

<sup>891</sup> Article 3 Ministerial Decision 115202/2021 on the 'Terms of material reception conditions in the form of financial assistance to applicants for international protection', Gov. Gazette 3322/B/26-7-2021, available in

the Minimum Guaranteed Income, which following a slight increase in November 2023,<sup>892</sup> foresees €216 support for a single-member household that is increased by €108 for each additional adult member of the household and by €54 for each minor member, up to a €972 ceiling.

In addition to the fact that financial aid preserves refugees' dignity and facilitates the process of regaining an autonomous life, by allowing them to choose what they need most, the programme has also had a significant and positive impact on local communities, as this assistance is eventually injected into the local economy, family shops and service providers. In proportion to programme's beneficiaries, UNHCR estimated that approximately €7.4 million in cash assistance was expected to be injected into local economies in December 2020.<sup>893</sup> No relevant data has been reported since the MoMA started issuing reports on the implementation of the financial aid programme.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
 Yes  No
2. Does the law provide for the possibility to withdraw material reception conditions?  
 Yes  No

There are several situations in which reception conditions may be reduced or withdrawn.<sup>894</sup>

Firstly, reception conditions may be reduced or in exceptional and specifically justified cases withdrawn, following a decision of the competent reception authority, where applicants:

- (a) If provided with accommodation in the context of reception, abandon said accommodation without informing the competent administration or without permission or abandon the geographical location of residence which has been determined for them by the competent authority under article 49 (2) Asylum Code (see geographical restriction);
- (b) Do not comply with the obligation to report personal information, such as address and employment contracts, or do not attend in person or do not respond to requests for information or do not attend, in the process of the examination of their application for international protection, a personal interview within the deadline set by the receiving and examining authorities;
- (c) Have lodged a Subsequent Application;

In cases (a) and (b), when the applicant is located or voluntarily presents themselves before the competent authority, a duly justified decision, assessing the reasons of abandonment, is taken with respect to the renewal, in part or in full, of the provision of the material reception conditions that were reduced or withdrawn.

Secondly, the competent Reception Authority reduces material reception conditions when it finds that the applicant, without justifiable reason, has not submitted an application for international protection as soon as possible after their arrival on the Greek territory.

Thirdly, the competent Reception Authority withdraws material reception conditions when it is established that the applicant has concealed financial resources and has, as a consequence, illegitimately taken advantage of the material reception conditions.

Fourthly, in cases of serious breach of the Operating Regulations of the accommodation centres, which disturbs the smooth operation of the centres and the coexistence of the people in them, especially when demonstrating particularly violent behaviour, material conditions are withdrawn as a sanction. At the same time, the competent Police Director and, in the case of the General Police Directorates of Attica and

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Greek at: <https://bit.ly/4dbV70A>. See also: Ministerial Decision 2857/29.9.2021 regulating the cash assistance program.

<sup>892</sup> Article 2 (7) JMD 53923/23-7-2021, Gov. Gazette 3359/28-7-2021 as amended by JMD 97046/6.11.2023, Gov. Gazette 6456/13-11-2023, available at: <https://bit.ly/4b6lFgO>.

<sup>893</sup> UNHCR, *Factsheet: Greece*, 1-31 December 2020, available at: <https://bit.ly/2QVbl8l>, p. 3.

<sup>894</sup> Article 61 (1), (2), (3) and (4) of Asylum Code.

Thessaloniki, the Police Director responsible for aliens is immediately informed, in order to ascertain whether there is a case of application of paragraph 2d or par. 3 of article 50 of this Code. In the case of UAMs, the competent Reception Authority must, before imposing the interruption of accommodation, contact the assistance services and/or the judicial authorities responsible for the protection of UAMs, to ensure the placement of the minor in a structure appropriate for his/her needs and to order other potential relief measures, if this is justified by the circumstances.

Lastly, material reception conditions are reduced, in accordance with provisions under article 61, in cases where minor applicants and the minor children of the applicants do not comply with the obligation to enrol and attend school (primary and secondary education of the public system of education), due to an unwillingness to integrate into the education system. In such cases, administrative sanctions foreseen for Greek citizens are also imposed on the adult members of the minor's family.<sup>895</sup>

Article 61 (5) of the Asylum Code provides that the decision to reduce or withdraw material reception conditions or the decision imposing the sanction foreseen in case of serious breach of the Operating Regulations of the accommodation centres, is taken by the competent Reception Authority on an individual and objective basis and must be justified. It also provides that the special situation of the person concerned, particularly if vulnerable, is to be taken into account and that the decision to reduce or withdraw material reception conditions cannot obstruct the applicant's access to medical and pharmaceutical care, in accordance with article 59 (2) of the Asylum Code, or make it impossible for them to access basic means that ensure a dignified standard of living. The same article also provides that the decision to reduce or withdraw material reception conditions or to impose the aforementioned sanction is communicated to the applicant in a language they understand.

As per article 61(6), material reception conditions cannot be withdrawn or reduced before the aforementioned decision is taken. The procedure to be followed is laid down in the General Regulation of Temporary Reception and Temporary Accommodation Facilities for third country nationals or stateless persons under the responsibility of the RIS (*Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Δομών Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών, που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης*) and the General Regulation for the Operation of Reception and Identification Centres and Mobile Reception and Identification Units (*Γενικός Κανονισμός Λειτουργίας Κέντρων Υποδοχής και Ταυτοποίησης και Κινητών Μονάδων Υποδοχής και Ταυτοποίησης*). In the first case, the procedure foresees: (a) a written warning and (b) a reasoned decision reducing or withdrawing material reception conditions, while in the second case a three-step procedure is foreseen, consisting of (a) an oral recommendation, (b) a written warning and (c) the interruption of accommodation as long as reception and identification procedures have been completed.<sup>896</sup>

A 2021 general regulation covering the operation of the island CCACs *inter alia* foresees the possibility to terminate accommodation and withdraw material reception if applicants are unjustifiably not identified during the regular census-verification of the resident population for two consecutive times,<sup>897</sup> although no separate procedure is foreseen. The same provision is maintained under article 9 of a 2023 General Regulation for the Operation of the CCACs.<sup>898</sup>

Between June and December 2020, reception conditions were withdrawn in the case of 4,957 people, 2,964 of whom were accommodated in camps, and 2.033 in the former ESTIA accommodation scheme (2,033), following status recognition or after a second instance negative decision. Data on decisions reducing or withdrawing material reception conditions have since not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "*and in particular at the link*

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<sup>895</sup> Article 55 (2) Asylum Code.

<sup>896</sup> Article 18 (1) Ministerial Decision 23/13532/2020, Gov. Gazette, 5272/B/30.11.2020 and article 10(1) Joint Ministerial Decision 1/7433/10-6-2019, Gov. Gazette 2219/B/10.6.2019.

<sup>897</sup> Article 7 (2) Decision 25.0/118832 of the General Secretary of Reception of the MoMA, Gov. Gazette 3191/B/20.7.21, available in Greek at: <https://bit.ly/3XwiTz8>.

<sup>898</sup> Article 9 (2) Decision 553695/2023 of the General Secretary of Reception of the MoMA, Gov. Gazette 7533/B/31.12.23, available in Greek at: <https://bit.ly/4beC3fU>.

<https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]<sup>899</sup>. Yet, a closer look at the public sources referred to by the MoMA highlights that the specific data is not available.

Applicants have the right to lodge an appeal (*προσφυγή*) against decisions that reduce or withdraw reception conditions before the Administrative Courts. In the case of appeal before the Courts, applicants also have a right to free legal aid and representation.<sup>900</sup> However, as explained further below, the remedy provided by this provision is not available in practice.

#### 4. Freedom of movement

##### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  Yes  No
2. Does the law provide for restrictions on freedom of movement?  Yes  No

Asylum seekers may move freely within the territory of Greece or an area (*περιοχή*) assigned by a regulatory (*κανονιστική*) decision of the Minister of Migration and Asylum<sup>901</sup> (formerly, the Minister of Citizen Protection). This geographical restriction of freedom movement within a particular area should not affect the inalienable sphere of private life and should not hinder the exercise of rights provided by the law.<sup>902</sup>

Following the entry into force of the IPA, on 1 January 2020, and subsequently the Asylum Code that replaced it, asylum seekers' freedom of movement can also be restricted through assignment to a specific place (*τόπος*), only if this is necessary for the swift processing and effective monitoring of the applications for international protection or for duly justified reasons of public interest or reasons of public order. This restriction is imposed by the Head of the Asylum Service and is mentioned on the asylum seekers' cards.<sup>903</sup> Applicants who are subject to this type of restriction are provided with material reception conditions, as long as they reside within the place indicated and, in case of non-compliance, the provision of material reception conditions is interrupted in accordance with article 61 of the Asylum Code<sup>904</sup>.

Applicants are required to immediately notify the competent authorities of any changes to their place of residence for as long as the examination of their asylum application is pending.<sup>905</sup>

Finally, applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Court against decisions that restrict their freedom of movement.<sup>906</sup> However, as explained below, the remedy regulated by this provision is not available in practice.

#### The geographical restriction on the Eastern Aegean islands

In practice, the imposition of a restriction on freedom of movement is particularly applied to persons subject to the EU-Türkiye statement and the [Fast-Track Border Procedure](#), whose movement is systematically restricted to the island where they have arrived, under a "geographical restriction". This is despite the fact that for more than 3 years now (early 2020) Türkiye has been refusing the return of asylum

<sup>899</sup> MoMA, Analysis and Studies Office, *Reply to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project*, received on 14 February 2024 (protocol number: 55259).

<sup>900</sup> Article 118 (1) and (2) Asylum Code.

<sup>901</sup> Article 49 (1) Asylum Code.

<sup>902</sup> *Ibid.*

<sup>903</sup> Article 49(2) Asylum Code.

<sup>904</sup> Article 49(3) Asylum Code.

<sup>905</sup> Article 49(6) Asylum Code.

<sup>906</sup> Article 118(1) Asylum Code.

seekers rejected by the Greek authorities, based on the “safe third country” concept,<sup>907</sup> thus making the statement non-operational in practice.

**Imposition of the “geographical restriction” by the Police:** Following an initial “Deportation decision based on the readmission procedure” issued for every newly arrived person upon arrival, a “postponement of deportation” decision is issued by the Police,<sup>908</sup> by which the person in question is ordered not to leave the island and to reside in the respective RIC ‘until the issuance of a second instance negative decision on the asylum application’. The automatic issuance of a deportation decision upon arrival against every newly arrived person on the Greek islands is highly problematic, given that the majority of newly arrived persons have already expressed their intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.<sup>909</sup> Moreover, the decision of the Police which imposes the geographical restriction on the island is imposed indiscriminately, without any prior individual assessment or proportionality test. It is also imposed indefinitely, with no maximum time limit provided by law and with no effective remedy in place.<sup>910</sup>

**Imposition of the “geographical restriction” by regulatory decision:** Following the initial introduction of a regulatory Decision imposing the geographical restriction by the Director of the Greek Asylum Service in 2017, and its subsequent annulment by the Greek Council of State, following an action brought forth by GCR, throughout the years, competence for the issuance of such a decision was transferred at the ministerial level, with the latest such decisions being issued by the Minister of Migration Policy in June 2019 and subsequently, following the amendment of the IPA, by the Minister of Citizen Protection in December 2019 (currently in effect).<sup>911</sup> A new application for annulment was filed by GCR before the Council of State against these Decisions, however the hearing has been since consistently postponed and was still pending examination in December 2023.

The Decision issued by the Minister of Citizen Protection in December 2019 regulates the imposition of the geographical restriction since 1 January 2020,<sup>912</sup> and states the following:

- ‘1. A restriction of movement within the island from which they entered the Greek territory is imposed on applicants of international protection who enter the Greek territory through the islands of Lesbos, Rhodes, Samos, Kos, Leros and Chios. Said restriction is mentioned on the asylum seekers’ cards.
2. The restriction on movement shall be lifted subject to a decision of the Director of the RIC, which is issued as per the provisions of para. 7, article 39 of L.4636/2019, in cases of
  - (a) unaccompanied minors,
  - (b) persons subject to the provisions of Articles 8 to 11 of Regulation (EU) No 604/2013, as long as another member state, following a request by the Greek authorities, has accepted and undertaken the obligation to receive them in their territory,
  - (c) persons whose applications can be reasonably considered to be well founded and
  - (d) persons belonging to vulnerable groups or who are in need of special reception conditions as per the provisions of L. 4636/2019, as long as it is not possible to provide them with appropriate support in accordance with the specific provisions of article 67 IPA (“applicants in need of special procedural guarantees”).

<sup>907</sup> Also see RSA, “The EU-Turkey deal is collapsing 7 years after its signing”, 16 March 2023, available at: <https://bit.ly/4d9CTNj>.

<sup>908</sup> Pursuant to Article 78 L 3386/2005.

<sup>909</sup> Article 1 (c) Asylum Code clearly states that a ‘third country national or stateless person who declares orally or in writing before any Greek authority, at entry points or in the Greek territory, that they seek asylum or subsidiary protection [...] or asks in any way to not be deported to some country due to fear of persecution [...]’ is an asylum applicant.

<sup>910</sup> See e.g. Human Rights Committee, *General Comment No 27 – Article 12 (Freedom of Movement, CCPR/C/21/Rev.1/Add.9*, 2 November 1999, available at: <http://bit.ly/2uG06Fj>.

<sup>911</sup> For more, see AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 153-154.

<sup>912</sup> Ministerial Decision 1140/2019, Gov. Gazette 4736/B/20.12.2019, available in Greek at: <https://bit.ly/3Qi4K43>.



In line with said Decisions in force during 2019 and since 1 January 2020, the geographical restriction on each asylum seeker who enters the Greek territory through the Eastern Aegean Islands is imposed automatically when the asylum application is lodged before the RAO of **Lesvos, Rhodes, Samos, Leros** and **Chios** and the AAU of **Kos**. The applicant receives an asylum seeker's card with a stamp on the card mentioning: "Restriction of movement on the island of [...]". In case the applicant holds the new type of "smart card", a separate category stating whether they are subject to the geographical restriction is included on the card (e.g., stating "Άνευ" if no restriction is applied). No individual decision is issued for each asylum seeker.

The lawfulness of the aforementioned practice is questionable, for the following reasons:

- ❖ No prior individual decision for the imposition of the geographical restriction is issued, as the restriction is imposed on the basis of a regulatory ('κανονιστική') Decision of the Minister and no proper justification on an individual basis is provided for the imposition of the restriction of movement on each island, within the frame of the asylum procedure.<sup>913</sup> According to the relevant Decisions, any asylum seeker who enters the Greek territory from **Lesvos, Rhodes, Samos, Leros, Chios** and **Kos** is initially subject to a geographical restriction on said island. The restriction can be lifted only if the applicant falls within one of the categories provided by the Ministerial Decision. Consequently, the geographical restriction in the asylum procedure is applied indiscriminately, *en masse* and without any prior individual assessment. The impact of the geographical restriction on applicants' "subsistence and... their physical and mental health",<sup>914</sup> on the ability of applicants to fully exercise their rights and to receive reception conditions, by taking into consideration reception conditions prevailing on the islands is not assessed.
- ❖ No time limit or any re-examination at regular intervals is provided for the geographical restriction imposed;
- ❖ No effective legal remedy is provided in order to challenge the geographical restriction imposed by the Minister of Citizen Protection, contrary to Article 26 of the recast Reception Conditions Directive. The remedy provided under article 118(1) (formerly introduced by the amended Article 24 L 4540/2018 in December 2018) remains illusory, since an individual cannot lodge an appeal pursuant to the Code of Administrative Procedure in the absence of an individual, enforceable administrative act. In addition, no tailored legal aid scheme is provided for challenging such decisions (see [Regular Procedure: Legal Assistance](#)). *A fortiori*, no legal remedy to challenge said restriction is provided by the new Asylum Code that replaced the IPA.

During 2021 and in line with the legal framework in place at that time, the geographical restriction was *inter alia* lifted in the following cases:

- ❖ Persons granted international protection;
- ❖ Applicants exempted due to the applicability of the family provisions of the Dublin Regulation;
- ❖ Vulnerable applicants for whom appropriate support could not be provided within the area of restriction, though GCR is aware of several cases of vulnerable applicants for whom the restriction was not lifted, even though neither special reception conditions nor special procedural guarantees could be provided, not least, due to diverging practices between locations (also see Lift of geographical Restriction).

As has been the case since 2021, data on the number of persons who had their geographical restriction lifted in 2023 has not been provided, even though it was requested by GCR. Instead, the MoMA's reply to GCR's January 2024 request for information makes reference to the availability of relevant "*summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority*" on the MoMA's website (<https://migration.gov.gr/statistika/>).<sup>915</sup> Yet, as is the case with

<sup>913</sup> Article 7 recast Reception Conditions Directive.

<sup>914</sup> Article 17(2) recast Reception Conditions Directive.

<sup>915</sup> MoMA, Analysis and Studies Office, *Reply to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project*, received on 14 February 2024 (protocol number: 55259).

other data mentioned throughout this report, so too in the case of data regarding decisions lifting the geographical restriction throughout 2023, these are not to be found in the public sources referenced by the Ministry.

Based on data published by the MoMA on the number of asylum seekers transferred from the islands to the mainland during 2023, it could perhaps be inferred that the geographical restriction might have been lifted in the case of up to 25.736 applicants.<sup>916</sup> However, the specific data published by the MoMA lacks significant information, such as information on the legal status or potential vulnerabilities of the people transferred (or any more specific breakdown whatsoever), thus making it impossible to draw any safe conclusions. Based on statistics issued by the RIS on people registered as vulnerable during the first nine months of 2023, it could also perhaps be inferred that amongst those having their geographical restriction lifted during the year, there might have been up to 1,413 UAM, up to 86 persons with disabilities, up to 55 elderly persons (>65 years old), up to 240 pregnant women or women who had recently given birth, up to 1,323 single parent families, up to 1,422 victims of physical abuse, and up to 90 victims of trafficking.<sup>917</sup> Yet, in this case too, the published data lack significant information, such as the location (islands/mainland) where the specific vulnerable persons were registered,<sup>918</sup> whether they were subject to a geographical restriction, and in case they were, whether this was lifted and whether they were ultimately transferred from the islands to the mainland, thus making it similarly impossible to draw any safe conclusion on the precise number of those who might have had their geographical restriction lifted during the year and with what effect, on account of their vulnerabilities.

Since 1 January 2020, the new regulatory framework for the geographical restriction on the islands has significantly limited the categories of applicants for whom the restriction can be lifted. Thus, the implementation of this framework can further increase the number of applicants stuck on the Greek islands and serves as a constant risk for bottlenecks that can deteriorate conditions there. This was vividly showcased in the latter half of 2023, when following an increase in arrivals by sea, there was a re-emergence of conditions of overcrowding in the island facilities, leading to the severe deterioration in the quality of reception in the CCACs and to procedural delays in *inter alia* accessing reception conditions.<sup>919</sup>

In addition to broader gaps and shortages, such as water supply shortages in the **Samos** CCAC or shortages in doctors in both **Samos** and **Kos** (see further bellow),<sup>920</sup> which are further accentuated in proportion to the number of CCAC residents, there are also ongoing questions vis-à-vis the CCACs preparedness to effectively accommodate even the number of persons foreseen based on their officially reported capacities, which accuracy needs to be checked. For instance, as reported during the Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR, on 19 January 2022, due to increased arrivals, the CCAC Director had informed that shelter availability in the Lesvos CCAC had become scarce, impacting living conditions therein. Interestingly, at the time, the CCAC reportedly hosted a total of 1,920 persons, which was significantly less than the facility's officially reported capacity of 8,000.<sup>921</sup> Likewise, in September 2023, RSA reported an unexplained increase in the officially reported capacity for the Samos

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<sup>916</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 2.

<sup>917</sup> MoMA, *Statistics, Reception and Identification Service, 2023, Registered TCNs per category of vulnerability (nine months 2023)*, available at: <https://tinyurl.com/57mbxapd>.

<sup>918</sup> The only exception identified concerns the registration of UAMs, for which a separate publication of the MoMA provides some further clarifications. Namely, from a total of 1,413 UAMs registered at border RICs during the first nine months of 2023, it arises that 1,068 were registered in the 5 island facilities. Yet this does not clarify whether and in how many cases a decision lifting their geographical restriction was issued. MoMA, *Statistics, Reception and Identification Service, 2023, 2023 UAM per place (nine months 2023)*, available at: <https://tinyurl.com/yfx9txj3>.

<sup>919</sup> Amongst others, see Joint CSO Statement, *Reception of asylum seekers in Greece: the demand for humane conditions remains*, 9 November 2023, available at: <https://tinyurl.com/32myr365>; The New Humanitarian, *'This is inexcusable': What's behind deteriorating conditions in Greek island asylum camps?*, 4 December 2023, available at: <https://tinyurl.com/ss7ufmtv>.

<sup>920</sup> For more, also see AlJazeera, *EU details violations at Greece's 'model' refugee camps*, 11 May 2023, available at: <https://tinyurl.com/vnmxfm2>.

<sup>921</sup> For instance, see NCCBCIA, *National Situational Picture Regarding the Islands at Eastern Aegean Sea (19/01/2022)*, 20 January 2022 and *National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2022)*, 1 January 2023. Both can also be accessed on the MoMA's website at: <https://bit.ly/3OFIP83>, under the label 'National Situation: Migrant and Refugee Issue'.

CCAC, which was increased overnight from 2,040 to 3,659 places.<sup>922</sup> In the same report, RSA highlights how during 2023 new arrivals in the Samos CCAC have been forced to sleep on the floor, without mattresses, in a room originally intended to serve as a restaurant, due to the lack of actual accommodation places.

Amidst these challenges, as observed by legal aid actors in February 2024,<sup>923</sup> a worrying practice has started being implemented in the **Samos** CCAC. Namely, applicants are given the choice of leaving the island, by having their geographical restriction lifted pursuant to MD 1140/2019, on the condition that they sign a solemn declaration, stating the following: *“I do not wish to be accommodated at the CCAC of Samos or any other regional service of RIS. I will live on my own and the address is..... and I have been informed of the consequences of my nonappearance before the examining authority”*. Notwithstanding practical questions, such as how it is feasible to ensure that newly arrived applicants, with presumably no previous link to Greece, are able to secure safe accommodation for themselves while stranded on an island, the practice also virtually amounts to applicants’ being called to renounce their right to reception conditions, on account of the State’s inability to meet its obligations under the recast Reception Directive. Crucially, applicants are not informed about the consequences of this practice, including the fact that signing the declaration is tantamount to losing access to financial aid provided in the context of reception and, in case of status recognition, to the Helios integration programme, given both have a residency requirement linked to ongoing stay in the reception system, nor are they provided a copy of this solemn declaration.<sup>924</sup>

In sum, the practice of indiscriminate imposition of the geographical restriction since the launch of the EU-Türkiye Statement has for years been a risk factor, intrinsically linked with the EU’s ongoing externalisation approach, that fosters and maintains conditions of possibility for the constant (re)emergence of overcrowded, substandard reception conditions on the Greek islands. At the same time, based on the aforementioned developments in **Samos**, it also gives rise to questionable practices, arguably aimed at managing the bottlenecks created by this approach, which nevertheless only end up shifting and widening the problems beyond the scope of reception (i.e., impacting integration as well), at the expense of applicants and beneficiaries’ rights.

In September 2020, the Greek National Commission for Human Rights (GNCHR) reiterated its firm and consistently expressed position, calling on the Greek Government to ‘review the dead-end policy with regards to the imposition of a geographical restriction on the Eastern Aegean islands and to move forward with the abolition of this onerous measure’.<sup>925</sup> The GNCHR also noted that regardless of circumstances, ‘any geographical restriction must be imposed following an individual assessment and a reasoned administrative act, giving the applicant the possibility of effective judicial protection, as this [measure] introduces a restriction on [the applicant’s] freedom of movement’.

In May 2021, amid the lowest levels of overcrowding observed since 2015, the Council of Europe Commissioner for Human Rights similarly underlined that “action to improve the lingering substandard living conditions in the Reception and Identification Centres must not be delayed and that all appropriate standards must be met, and overcrowding prevented. With the new reception facilities reportedly set to operate as closed centres, the Commissioner is concerned that this will lead to large-scale and long-term deprivation of liberty. The Commissioner also ‘urge[d] the Greek authorities to reconsider the closed nature of these centres, in order to ensure that the regime applicable to these facilities safeguards the freedom of movement of their residents, in line with the relevant Council of Europe standards.’ She further reiterated that ‘the policy of containment of refugees, asylum seekers and migrants on the Aegean islands

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<sup>922</sup> RSA, *Disgraceful living conditions in the ‘state-of-the-art’ Closed Controlled Access Centre (CCAC) of Samos*, 6 February 2024, available at: <https://bit.ly/3WeIY5Z>.

<sup>923</sup> As per information shared in February 2024 by legal aid actors under the newly established Border Legal Aid sub-working group, which covers the islands of Lesbos, Samos and Kos. Information received on 12 March 2024.

<sup>924</sup> *Ibid.*

<sup>925</sup> National Commission for Human Rights, *Report on the refugee and migration issue (“Εκθεση αναφοράς για το προσφυγικό και το μεταναστευτικό ζήτημα”)*, September 2020, available in Greek at: <https://bit.ly/3vulqre>, p. 44.

lies at the heart of many of the long-standing problems Greece has experienced in protecting the rights of these persons’ ..<sup>926</sup>

Despite these calls, which remain relevant to this day, as reported by GCR and Oxfam in a joint submission to the EU Ombudsman in March 2023,<sup>927</sup> ‘[t]he confinement of asylum applicants appears to be a primary objective in the new EU-funded sites [i.e. CCACs]’, with several measures leading to the deprivation of applicants’ liberty. The joint submission was made following the EU Ombudsman’s opening of an own-initiative inquiry to assess how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece.<sup>928</sup>

Failure to comply with the geographical restriction has serious consequences, including detention of asylum seekers, as applicants apprehended outside their assigned island are – arbitrarily – placed in pre-removal detention for the purpose of returning to their assigned island. They may also be subject to criminal charges under Article 182 of the Criminal Code.

## B. Housing

### 1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	33 (reportedly) <sup>929</sup>
2. Total number of places in the reception system:	Not available <sup>930</sup>
3. Total number of places in private accommodation:	0 <sup>931</sup>
4. Type of accommodation most frequently used in a regular procedure:	
<input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other	
5. Type of accommodation most frequently used in an accelerated procedure:	
<input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other	

Article 28 L. 4825/2021 (replacing para. 4 art. 8 L 4375/2016) provides that the Regional Services of the RIS are the:

- ❖ Reception and Identification Centres (RICs),
- ❖ Controlled Temporary Accommodation Centres and
- ❖ Closed Controlled Access Centres (CCACs), which are structured and have similar responsibilities to the RICs and which include distinct spaces for the operation of Temporary Accommodation facilities and Pre-Removal Centres.

<sup>926</sup> Council of Europe, *Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions*, 3 May 2021, available at: <https://bit.ly/3fpRIOc>.

<sup>927</sup> GCR and Oxfam, *Contribution to the European Ombudsman’s own-initiative inquiry OI/3/2022 MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 9 March 2023, available at: <https://bit.ly/3CjEbnT>, p. 3.

<sup>928</sup> For more, see EU Ombudsman, *How the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, Case OI/3/2022/MHZ - Opened on Monday, 11 July 2022, available at: <https://bit.ly/43bmmDb>.

<sup>929</sup> Includes 24 temporary accommodation Centers which as per the MoMA’s website (relevant section [here](#)) were operational on the mainland as of 21 February 2024 (last access), and 9 RICs/CCACs, 3 of which on the mainland and 6 on the islands, which as per the MoMA’s website (relevant section [here](#)) were operational as of the same date.

<sup>930</sup> Reception capacity is only provided for island facilities, where, as of 31 December 2023, the number of reception places reportedly stood at 18,315 (17,737 in CCACs, 226 in facilities operating under the National Centre for Social Solidarity dedicated to the accommodation of UAM and 352 in Lesvos, categorised under “other accommodation facilities”, which likely refers to the Controlled Temporary Accommodation Facility of West Lesvos. National Coordination Center for Border Control, Immigration and Asylum (N.C.C.B.C.I.A.), *National Situational Picture Regarding The Islands At Eastern Aegean Sea (31/12/2023)*, available at: <https://tinyurl.com/47mtd9z8>.

<sup>931</sup> Concerns the previous ESTIA accommodation programme that was terminated in December 2022.

The same article also provides for the operation of distinct spaces, within the perimeter of the aforementioned types of accommodation, that should fulfil specifications appropriate for the accommodation of third country nationals or stateless persons belonging to the vulnerable groups prescribed by law.

Overall, the Greek reception system has been long criticised as inadequate, not least in the *M.S.S. v. Belgium and Greece* ruling of the ECtHR. Subsequent jurisprudence of the ECtHR has also found violations of Article 3 ECHR due to the failure of national authorities to provide asylum seekers with adequate living conditions.<sup>932</sup>

From mid-2015, when Greece was facing large-scale arrivals of refugees, those shortcomings became increasingly apparent. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016 resulted in trapping about 50,000 third-country nationals in Greece. This created *inter alia* an unprecedented burden on the Greek reception system.<sup>933</sup> Since then, the number of reception places has increased mainly through camps and the former ESTIA accommodation programme initially implemented by UNHCR, until the latter was terminated at the end of 2022. Despite this increase, destitution and homelessness remain a risk, which has continued affecting asylum seekers and refugees,<sup>934</sup> particularly following the Greek government's decision to link eligibility for the cash-based support provided in the context of material reception with residence in Greece's reception system, coupled with the termination of ESTIA –which severely disrupted applicants' access to their rights while compounding barriers to integration<sup>935</sup>– and systematic application of the “safe third country” concept even to cases where the provisions of article 38 Directive 2013/32/EU are not fulfilled in practice.

The Reception and Identification Service (RIS), operating under the General Secretariat for the Reception of Asylum Applicants of the MoMA, is the responsible authority for the reception of asylum seekers,<sup>936</sup> including of unaccompanied minors.<sup>937</sup> Following the full handover of “ESTIA” to the MoMA in May 2021,<sup>938</sup> the RIS has also been responsible for managing the accommodation programme, in collaboration with implementing partners,<sup>939</sup> until the programme was terminated in December 2022. Yet as far as GCR is aware, the RIS had stopped receiving new referrals for accommodation to ESTIA, even for highly vulnerable cases, several months before the programme's termination. Following the entry into force of the Asylum Code and relevant amendments by L. 4960/2022, the Special Secretary for Unaccompanied Minors (SSUM) of the MoMA remained the competent authority for the protection of UAM, including for the referral and accompaniment of UAM to dedicated accommodation facilities for UAM and the implementation of Guardianship,<sup>940</sup> until the transfer of its responsibilities (under article 39 pf P.D. 106/2020) to the new General Secretariat for Vulnerable Persons & Institutional Protection established with article 6(1) of P.D. 77/2023 (A' 130/ 27.6.2023).

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<sup>932</sup> ECtHR, *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014; *Al.K. v. Greece*, Application No 63542/11, Judgment of 11 March 2015; *Amadou v. Greece*, Application No 37991/11, Judgment of 4 February 2016; *S.G. v. Greece*, Application No 46558/12, Judgment of 18 May 2017, *A.D. v Greece*, Application no. 55363/19, Judgment of 4 April 2023.

<sup>933</sup> See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, available at: <https://bit.ly/3WRDBXE>, pp. 7-8.

<sup>934</sup> See, *inter alia*, Katimerini, *Thousands of refugees back out in the cold*, 20 January 2023, available at: <https://bit.ly/3mWTzm3>; The Guardian, *Destitution is almost inevitable: Afghan refugees in Greece left homeless by failed system*, 30 November 2022, available at: <https://bit.ly/3HbNicW>; GCR, Diotima Centre & IRC, *Homeless & Hopeless: An assessment of the housing situation of asylum applicants and beneficiaries of international protection in Greece*, January 2022, available at: <https://bit.ly/3uwZ2zC>; Joint Announcement of 74 civil society organisations, *Refugees in Greece: Risk of Homelessness and Destitution for Thousands during Winter*, 22 December 2020, available at: <https://bit.ly/3nlBofT>.

<sup>935</sup> For more, see AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 161-164.

<sup>936</sup> Article 1(στ) Asylum Code.

<sup>937</sup> Article 64 (2) Asylum Code as amended.

<sup>938</sup> ECRE, *Greece: Hearing Reveals Hostile Environment for Human Rights Defenders, Strategy of Deflection and Denials on Pushbacks Continue, ESTIA Cash Scheme Unravels as Government Takes Over*, 15 October 2021, available at: <https://bit.ly/3LmNohy>.

<sup>939</sup> MoMA, *ESTIA Programme*, see: <https://bit.ly/439Selj>.

<sup>940</sup> Article 64 Asylum Code.

## 1.1 Temporary accommodation centres

In 2016, in order to address the needs of persons remaining in Greece after the imposition of border restrictions along the so-called Western Balkan route, a number of temporary camps were created on the mainland in order to increase accommodation capacity. Article 10 of L. 4375/2016<sup>941</sup> provided a legal basis for the establishment of different accommodation facilities.

In addition to [Reception and Identification Centres](#),<sup>942</sup> the Ministry of Economy and the Ministry of Internal Affairs may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers (*Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία*),<sup>943</sup> as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.<sup>944</sup>

Lastly, and amongst others, as per the amendments brought forth by L. 4686/2020, the Ministers of Finance, of Citizen Protection and of Migration & Asylum can decide on the establishment of Closed Temporary Reception Centres and Closed-Controlled Island Centres for asylum applicants subject to a detention order, for asylum applicants or persons subject to a return procedure or whose removal has been suspended, provided that restrictive conditions have been imposed on them.<sup>945</sup> As per the same amendment, Reception and Identification Centres (RICs), Closed Temporary Reception Structures, Pre-Removal Detention Centres (PRDCs), as well as separate areas with appropriate specifications for the accommodation of third country nationals or stateless persons belonging to vulnerable groups can operate within the aforementioned Closed Temporary Reception Centres and Closed-Controlled Island Centres.

As of 24 March 2020, following the issuance of a relevant Joint Ministerial Decision of the Ministers of Finance and of Migration & Asylum,<sup>946</sup> all temporary accommodation centres (*i.e.*, mainland camps) and emergency facilities (*i.e.*, hotels) have been regulated. Before that, the only three facilities officially established on the mainland were **Elaionas**,<sup>947</sup> **Schisto** and **Diavata**,<sup>948</sup> with the rest operating without an official manager, through Site Management & Support. As of May 2020, following a decision issued by the Minister of Migration and Asylum,<sup>949</sup> Directors were assigned for a period of a year, which is renewable for up to an additional two years, to the entire island, RICs and the temporary mainland accommodation centres. In the same month, as per Joint Ministerial Decisions issued by the Ministers of Environment and Energy, of Internal Affairs and of Migration and Asylum, the locations and the construction of the new island RICs on Leros ("Ormos Lakkis" location, with a surface area of 25,514.09 m<sup>2</sup>), Samos ("Zervou" location, with a surface area of 244,789.34 m<sup>2</sup>) and Kos ("Mesovouni" location, with a surface area of 25,514.09 m<sup>2</sup>) were decided.<sup>950</sup>

The capacity and occupancy of accommodation sites can be seen in the following table:

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<sup>941</sup> As in force after replacement with article 29 of L. 4825/2021 regarding reform of deportation and returns procedures, attraction of investors and digital nomads, issues of residence permits and of procedures for granting international protection, provisions of the competence of the MoMA and of the Ministry of Citizen Protection and other urgent provisions.

<sup>942</sup> Article 10(1)-(2) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>943</sup> Article 10(4) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>944</sup> Article 10(5) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>945</sup> Article 30 (4) and (5) L. 4686/2020 amending articles 8 and 10 of L. 4375/2016 respectively.

<sup>946</sup> JMD 2945/2020 on the 'Establishment of Temporary Reception Structures for Third-Country Nationals or Stateless Persons who have applied for international protection', Gov. Gazette 1016/B/24-3-2020.

<sup>947</sup> JMD 3/5262, 'Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Elaionas Attica Region', 18 September 2015, Gov. Gazette B2065/18.09.2015; JMD 3.2/6008 'Establishment of the Open Facility for the temporary reception of applicant of international protection', 18 September 2015, Gov. Gazette B' 1940/6.06.2017.

<sup>948</sup> JMD 3/14762, 'Establishment of Open Facilities for the Temporary Hospitality of applicant for international protection', Gov. Gazette B' 3720/16.11.2016.

<sup>949</sup> Ministerial decision 4512/19.05.2020 of the Minister of Migration and Asylum, Gov. Gazette Government Gazette, Volume of Special Position Employees and Administration Bodies of the Public Sector and the Broader Public Sector Agencies, no.381/23-05-2021.

<sup>950</sup> JMD 4712, 4711 and 5099, Gov. Gazette 2043/B/30-5-2020.

Capacity and occupancy of the asylum reception system: December 2023		
Centre	Capacity	Occupancy at end of December 2023
Islands		
Lesvos CCAC	8,000	5,390
Samos CACC	3,650	3,890
Chios CCAC	1,014	1,082
Leros CACC	2,150	2,192
Kos CACC	2,923	3,360
Mainland (per region, as per MoMA publication)		
Mainland Greece	Not available	3,199
Epirus	Not available	1,790
Central Macedonia	Not available	5,314
East Macedonia & Thrace	Not available	1,463
Peloponnese	Not available	707
Attica	Not available	3,903
West Greece	Not available	484
Thessaly	Not available	126
<b>Grand total</b>	<b>Total not available (17,737 reported for island CCACs)</b>	<b>32,900</b>

Source: National Coordination Centre for border Control, Immigration and Asylum, *National Situational Picture regarding the Islands at Eastern Aegean Sea (31/12/2023)*, 1 January 2024, available at: <https://migration.gov.gr/en/statistika/>; MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/yc2stzh7>, table 4.

## 1.2 The islands and accommodation in the hotspots

Immediately after the launch of the EU-Türkiye Statement on 20 March 2016, Reception and Identification Centres (RIC) –the so-called “hotspot” facilities– were transformed into closed detention facilities due to a practice of blanket detention of all newly arrived persons.<sup>951</sup> Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with a large population,<sup>952</sup> this practice was largely abandoned shortly afterwards. As a result, before the COVID-19 pandemic and the subsequent establishment of the new CCACs, islands RICs were mainly operating as open reception centres, similar to mainland camps (with the exception of mainland RICs of Orestiada, Diavata and Malakasa).

In March 2020, following the breakout of the global COVID-19 pandemic, those residing in RICs and camps became subject to disproportionate restrictions of their freedom of movement in the context of measures aimed at restricting the spread of the virus.<sup>953</sup> These restrictions continued being renewed up

<sup>951</sup> AIDA, *Country Report Greece: 2016 Update*, March 2017, available at: <https://bit.ly/3J8Qw23>, p.100 et seq.  
<sup>952</sup> UNHCR, *Explanatory Memorandum to UNHCR’s Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, available at: <https://bit.ly/3Qhsk00>, p. 10.

<sup>953</sup> Although measures for the general population have largely fluctuated throughout the year, also depending on the epidemiological actualities of each location, residents of RICs and camps have been consistently subject to a horizontal restriction of their movement between 7pm-7am, with representatives of families or groups only allowed exit from the respective facilities in order to cover essential needs, as per consecutive Joint Ministerial Decisions issued since 21 March 2020. Amongst others, see HRW, *Greece Again Extends Covid-19 Lockdown at Refugee Camps*, 12 June 2020, available at: <https://bit.ly/3fmYncl>.

to 27 March 2023,<sup>954</sup> even though restrictive measures in the context of the pandemic had largely stopped being applied to the rest of the population.<sup>955</sup>

Following a controversial press briefing on the Government's operational plan for responding to the refugee issue, on 20 November 2019,<sup>956</sup> it was announced that the island RICs would be transformed into Closed Reception and Identification Centres that would simultaneously function as Pre-Removal Detention Centres and which would have a capacity of at least 18,000 places. The announcements *inter alia* raised serious concerns and were condemned by a wide array of actors, including members of the European Parliament – who addressed an open letter to the Justice and Home Affairs Council – the CoE Commissioner for Human Rights,<sup>957</sup> as well as GCR and other civil society actors,<sup>958</sup> and local communities in Greece, who have on several occasions continued to display their opposition to the creation of new centres on the islands and the containment of asylum applicants there.<sup>959</sup>

Notwithstanding, throughout 2023, people residing in the CCACs continued to be subjected to a “geographical restriction”, based on which they are under an obligation not to leave the island and to reside in the RIC facility (see [Freedom of Movement](#)). They also remain subject to strict entry-exit measures, such as having to undergo security controls (metal detectors and/or physical controls), and to being under an obligation to comply with permitted hours of exit and (re)entry, and with an obligation to stay in the CCAC during the night. Non-compliance with these obligations can *inter alia* lead to the reduction and/or withdrawal of material reception conditions in accordance with article 61 Asylum Code.<sup>960</sup>

As of 31 December 2023,<sup>961</sup> 16,139 persons remained on the Eastern Aegean islands, more than 3 times higher compared to the same day in the previous year (4,735).<sup>962</sup> Of those, 46 were in detention in police cells in Lesbos, Kos and other islands, and in the Pre-Removal Detention Centre (PRDC) of Kos, while the nominal capacity of the CCACs on all five islands stood at 17,737 (12% increase compared to December 2022, when capacity stood at 15,790 places).

More precisely, the figures reported by the National Coordination Centre for Border Control, Immigration and Asylum, under the Ministry of Citizen Protection, were as follows:

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<sup>954</sup> JMD Δ1α/ΓΠ.οικ.15102/10.3.2023 on the “Extension of the Joint Ministerial Decision Δ1α/ΓΠ.οικ.5432/27.1.2023 (B' 389) regarding emergency measures to protect public health from the risk of further spread of the coronavirus COVID-19 in the whole of the Territory until Monday, 27 March 2023 at 06:00”, available in Greek at: <https://bit.ly/3w9rlr4>, in conjunction with JMD Δ1α/ΓΠ.οικ.5432/27.1.2023 and Annex II therein.

<sup>955</sup> For more, see AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAIr>, p. 165.

<sup>956</sup> Greek Government, *Political Press Briefing – the Government's Operational Plan for dealing with the migrant issue*, 20 November 2019, available in Greek at: <https://bit.ly/2RO2Kml>.

<sup>957</sup> Council of Europe, *Commissioner seeks information from the Greek government on its plans to set-up closed reception centres on the Aegean islands*, 3 December 2019, available at: <https://bit.ly/38X2GX4>.

<sup>958</sup> For instance, see GCR, *The Greek Authorities announcements on the refugee issue are in contrast to national and international law*, 21 November 2019, available in Greek at: <https://bit.ly/489ITCn>; The Guardian, *Aid groups condemn Greece over 'prison' camps for migrants*, 25 November 2019, available at: <https://bit.ly/2S4YXzW>.

<sup>959</sup> For instance, Coordinating Committee of the Elected Officials - Residents Of Chios, *We will not allow the islands to become prisons for souls*, 902.gr, 5 July 2023, available in Greek at: <https://tinyurl.com/yzts4rwe>; Ethnos, *Lesbos: Residents' reactions to the new migrant structure*, 8 February 2022, available in Greek at: <https://bit.ly/3xS67jw>; Ekathimerini, *More protests against new island centres on the way*, 10 January 2020, available at: <https://bit.ly/31fwkEp>; Efsyn, *The papers say one thing and N. Mitarakis says another*, 26 April 2021, available in Greek at: <https://bit.ly/3t2kiuc> and GCR, SCI, Greece, *Advocacy update: March-April 2021*, available at: <https://bit.ly/2SNlsw2>, pp. 4-5.

<sup>960</sup> Articles 6 and 9 of [Decision 553695/2023](#) of the General Secretary for Reception of Asylum Seeker of the Ministry of Migration and Asylum regarding the General Regulation for the Operation of Closed Controlled Facilities, 31 December 2023. As per article 9 of the same decision, the allowed hours of exit and (re)entry, which in practice largely mirror those imposed under previous measures aimed at combating spread of the coronavirus, are specified by a Decision of the Director of the RIS. Yet up to the time of writing it hasn't been possible to find said Decision.

<sup>961</sup> National Coordination Centre for border Control, Immigration and Asylum, *National Situational Picture regarding the Islands at Eastern Aegean Sea (31/12/2023)*, 1 January 2024, available at: <https://bit.ly/3OFIP83>.

<sup>962</sup> National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12.2022*, 1 January 2023, available in Greek at: <https://bit.ly/45kpuOq>.



Accommodation on the Eastern Aegean islands: 31 December 2023								
Island	Closed-Controlled Centres		MoMA		UAM accommodation		Other facilities	
	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy
Lesvos	8,000	5,390	0	0	193	152	352	0
Chios	1,014	1,082	0	0	18	12	-	-
Samos	3,650	3,890	0	0	15	15	-	-
Leros	2,150	2,192	0	0	-	-	-	-
Kos	2,923	3,360	0	0	-	-	-	-
Others	-	-	0	0	-	-	-	-
<b>Total</b>	<b>17,737</b>	<b>15,914</b>	<b>0</b>	<b>0</b>	<b>226</b>	<b>179</b>	<b>352</b>	<b>0</b>

Source: National Coordination Centre for border Control, Immigration and Asylum, *National Situational Picture regarding the Islands at Eastern Aegean Sea (31/12/2023)*, 1 January 2024, available at: <https://migration.gov.gr/en/statistika/>.

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?  Yes  No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No
4. Are single women and men accommodated separately?  Yes  No  
 Depends/subject to availability of space/capacity

Article 59(1) of the Asylum Code provides that material reception conditions must provide asylum seekers with an adequate standard of living that guarantees their subsistence and protects their physical and mental health, based on respect for human dignity.

On 27 September 2023, after many years, the launch of a complaints mechanism operating under the responsibility of the fundamental rights officer (FRO) of the MoMA was announced.<sup>963</sup> As per the relevant announcement and guidance published by the MoMA, the mechanism is accessible to any third-country national who considers they have been “directly affected by state actions or omissions and [...] that one or more of his/her fundamental rights have been violated due to those actions or omissions, during access to territory and/or reception and/or asylum procedures in Greece”.<sup>964</sup> Complaints need to be submitted in writing and by name, and can either be filled online, in a relevant section established on the [MoMA's website](#), or sent by email or post to the MoMA's FRO.

Though in principle a positive development, the requirement for complainants to submit a complaint in writing, which can currently only be done either in Greek or English,<sup>965</sup> and by name, seems to *a priori* hinder applicant's potential for accessing this mechanism on their own, either on account of language barriers or due to potential fear of disclosing their name in a document that may attribute fundamental rights violations to actions or omission of the Greek administration, while their asylum applications are still pending. Therefore, the effectiveness of this mechanism remains to be seen.

<sup>963</sup> MoMA, *Launch of the Complaints Mechanism*, 27 September 2023, available in Greek at: <https://tinyurl.com/8wyzk2r>.

<sup>964</sup> MoMA, *Complaint Form, general guidance*, available at: <https://tinyurl.com/3nhnsumz>, p.1.

<sup>965</sup> Ibid.

## 2.1 Conditions in temporary accommodation facilities on the mainland

Living conditions in the mainland camps vary depending on the facilities, as different types of accommodation and services are offered at each site. Therefore, although camps are never suitable for long-term accommodation, compliance with the standards of the recast Reception Conditions Directive should be assessed against the situation prevailing in each camp.

On this point, it needs to be flagged that increasingly throughout 2023, amidst the handover of site management activities to the Greek state, the situation in mainland camps has evolved into one where less (independent) actors are present or regularly accessing the camps. This has resulted in further hindering effective oversight vis-à-vis reception conditions on the mainland, particularly since IOM stopped publishing data on mainland camps in March 2022, and has been raised as a main concern/gap by actors during the year.<sup>966</sup>

Further compounding this gap is the comparative lack of media attention to the prevailing situation in mainland –as opposed to island– facilities, even though mainland camps have similar to those on the islands been gradually transformed into prison-like, high security settings for the reception of a vulnerable population group (*i.e.*, asylum applicants),<sup>967</sup> with the prevailing environment having direct ramifications on residents' wellbeing.

As noted in an open letter by 32 Refugee Education Coordinators (RECs) working in the camps in May 2023<sup>968</sup>:

*"[W]here either the model of "Closed Controlled Centers" (CAACs), such as in Samos, Leros and Kos, or the "Reception and Identification Centres" (RICs), such as in Diavata, Malakasa or Fylakio, Evros, is already applied, or even where the so-called 'controlled' living model is promoted, such as in the various 'Controlled Facilities for Temporary Accommodation of Asylum Seekers' (particularly) in the mainland, extremely damaging conditions are created for the well-being of both the refugee children themselves and their families in general. These conditions create, first of all, anxiety for the psychosocial and learning development of the children we support and, secondly, discomfort, giving us the feeling that we are now working in an 'open prison' environment."*

As further noted in their letter,<sup>969</sup> this model of reception, which as stressed by the RECs *inter alia* amounts to applicants' accommodation "in particularly remote areas and their enclosure by three-meter-high concrete walls [...]; the creation of more and more internal, separate, clusters-cages for the different functions, which are shielded with double fencing and scaled wire mesh and guarded by private security companies; [and] the rapid understaffing of social and health services in terms of scientific staff, interpreters/translators, etc. and the parallel increase in security staff", also *inter alia*:

- ❖ Creates insurmountable practical obstacles in children's and young persons' access to formal education, due to the distance between their place of residence from urban centers where public schools operate,
- ❖ Drastically limits possibilities to maintain communication with schoolmates and more broadly people of a similar age, given social integration activities that take place in the context of education become impossible, due to their isolation and the parallel inability of non-residents to access [the camps],
- ❖ prevents refugee parents and guardians from communicating with their children's teachers and with the parents and guardians of children in the local communities, thus nullifying one of the fundamental functions of the educational community,

<sup>966</sup> For instance, this was raised as a main concern by actors during the 16 May 2023 National Protection Working Group, which is organised and chaired by UNHCR, and currently co-chaired by GCR.

<sup>967</sup> As per information exchanged and further concerns raised during the same 16 May 2023 National Protection Working Group.

<sup>968</sup> The letter was *inter alia* published by EfSyn. See EfSyn, *RECs: Educational integration of refugee children does not fit in closed centres*, 11 May 2023, available in Greek at: <https://tinyurl.com/4mes767c>.

<sup>969</sup> *Ibid.*

- ❖ creates a suffocating living environment for children and their families, as well as for all those living in spatial isolation, which creates a series of intense psychopathological consequences and reproduces social stigma.

Amidst a significant and widening gap with regards to information concerning living conditions in the mainland camps, limited publications such as the preceding one, seem to reconfirm that, even though living conditions in the mainland have been in general terms reported as better than those on the island CCACs throughout the years,<sup>970</sup> they still remain unfit for purpose, particularly on account of their prison-like nature and isolation from society, which results in hindering both applicants' access to services and prospects of integration.

Illustratively, out of 22 people residing in mainland camps interviewed under a joint project by GCR, Diotima Centre, and IRC between mid-November 2021 and 1 March 2022, 50% stated that they could not easily reach necessary services (e.g., hospitals) outside of the camp, and 60% that they did not have a chance to get to know the Greek society or meet Greek people, due to the isolated nature of their accommodation.<sup>971</sup>

The negative impact of isolated, camp-based accommodation to integration prospects was also highlighted in a UNHCR-commissioned study published in December 2023, which based on a survey carried out between May-July 2022, over a sample of more than 3,700 asylum applicants, including applicants rejected at first instance and beneficiaries of international protection, *inter alia* found much lower levels of integration amongst applicants and beneficiaries accommodated in camps, compared to those being accommodated in the urban fabric (e.g., through ESTIA or Helios support) and particularly those self-accommodated.<sup>972</sup>

The “*persisting challenges, particularly concerning the remote location [of camps] which hampers accessibility of vital services, such as health care and psychological support, as well as access to employment opportunities and interaction with local communities – essential for integration*” were also flagged in February 2024 by the UN High Commissioner for Refugees, Filippo Grandi, during a two-day visit to Greece.<sup>973</sup>

In January 2023, a 45-year-old Congolese national residing in **Ritsona** camp was found dead in his shelter. Reportedly,<sup>974</sup> during the night, the man had been complaining of feeling chest pains and requested medical support. As further reported,<sup>975</sup> the facility, which was at the time accommodating roughly 2,000 persons, lacked sufficient medical personnel, had only one first aid station that was not operational during night hours. Though an ambulance was called, as per complaints by the camp's residents, it arrived with delay and the man was confirmed dead upon his belated arrival at the hospital in Chalkida (roughly 15 km away). Residents of the facility reacted by demanding adequate health coverage.

<sup>970</sup> For instance, UNHCR, *Greece Update No. 16: Lesvos*, 9 March 2021, available at: <https://bit.ly/3opJQkl>.

<sup>971</sup> Additionally, 10 described their living conditions in the camps as “very bad”, 8 as “Bad” and 4 as “neither good nor bad”, while in 68% of the cases, respondents stated that they do not feel safe in the camp, 60% felt forced to share accommodation with people they did not know and/or with whom they did not wish to be jointly accommodated, and 64% complained that the place they lived in was not clean. Data collected through a joint questionnaire prepared by GCR, Diotima Centre, and IRC in the context of the joint project prepared by GCR, Diotima Centre and IRC, ‘*Do the human right thing—Raising our Voice for Refugee Rights*’. The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of 1 March 2022, 188 such questionnaires have been collected, albeit only 22 were filled by people specifically residing in mainland camps.

<sup>972</sup> Casalis M. et.al., *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at: <https://tinyurl.com/ycyacy57>, pp. 41-42.

<sup>973</sup> UNHCR, *UN High Commissioner for Refugees wraps up visit to Greece: welcomes progress on integration and urges continued efforts*, 22 February 2024, available at: <https://tinyurl.com/bdepjsbh>.

<sup>974</sup> To Kouti tis Pandoras, *Dead refugee in Ritsona facility*, 16 January 2023, available in Greek at: <https://bit.ly/3n2wmid>.

<sup>975</sup> 902.gr, *The death of a refugee in Ritsona proves the deterioration of health structures*, 18 January 2023, available in Greek at: <https://bit.ly/3HeP7WG>.

Amongst the factors further hindering accessibility to necessary services outside the camps were also ongoing gaps and challenges with respect to the availability of transportation or lack of resources to access it when available, which to different degrees continued being reported throughout 2023.<sup>976</sup>

As noted by a single mother from Afghanistan, residing in the Malakasa camp, in March 2023<sup>977</sup>:

*"I feel like I am living in hell. I have been in Greece for three months now, but time feels like not passing. I am so stressed about my asylum interview, that will take place in a few days. I just feel desperate and afraid most of the time. I stay inside the container with the lights off. I have been in Athens only to visit my psychologist and my lawyer. I received the financial support last month for the first time. In the beginning I had no help. I had to take the train to visit my psychologist but I had no money for the ticket. I could register my asylum application after some weeks, and only after that I received the Cash-Card. In the meanwhile, IOM started helping me with my transfers to Athens. But now they told me that they have stopped working in the camp and they'll only come for urgent cases. That makes me more worried. I even lost my last appointment with the psychologist in Athens because the transportation services were cut and there are still no trains. I feel a lot of pressure and stress."*

Similar gaps and/or complete lack of transportation services in mainland camps, leading to the severe disruption of camp residents' ability to access their rights, including the asylum procedure, their lawyers, psychosocial care, or hospitals and medication for those in need of regular treatment, were reported in both March and April 2023.<sup>978</sup>

Efforts to address these gaps were subsequently and partially undertaken by IOM, which under the HARP project resumed the provision of remote transportation services (bus transportation) for people residing in the mainland camps of Andravida, Ritsona, Thiva, Nea Kavala, Vagiochori, and Koutsochero,<sup>979</sup> at least up to June, when the project was finalised. Following this, transportation started being provided under the RIS from the mainland camps to the nearest urban centers in July 2023, yet practical challenges, such as buses not being in use in Nea Kavala camp,<sup>980</sup> continued being reported up to the end of the year, when provision of transportation services was reported as more stable.<sup>981</sup>

Regarding housing arrangements, with very few exceptions, by March 2022, amidst the significant reduction in arrivals, there had been a similar significant reduction in the use of unsuitable/emergency units (*i.e.*, tents) for the purposes of accommodating camp residents, who at the time were instead accommodated in comparatively more suitable units, such as containers, apartments/rooms, and shelters.<sup>982</sup> Whether and to what extent this was still the case in 2023, particularly following the increase in arrivals and the concomitant increase in the number of persons transferred from the islands to the mainland, is not possible to assess given the lack of relevant public data. Yet, infrastructural damages, due to physical wear and tear or misuse were reported with respect to the sewage system and housing units in Ritsona camp, in March 2023.<sup>983</sup>

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<sup>976</sup> *Inter alia*, as per information acquired during the 17 March 2023 protection working group for Northern Greece, which is organised under UNHCR.

<sup>977</sup> RSA, *Refugee women in the offside: Greece encampment policy and services takeover lead to isolation and deny protection*, 21 March 2023, available at: <https://bit.ly/3lXoPqX>.

<sup>978</sup> Information provided during the 11 April 2023 National Protection Working Group which is organised and chaired by UNHCR and currently co-chaired by GCR. Also see RSA, *Refugee women in the offside: Greece encampment policy and services takeover lead to isolation and deny protection*, 21 March 2023, available at: <https://bit.ly/3lXoPqX>.

<sup>979</sup> Information provided during the 16 May 2023 National Protection Working Group which is organised and chaired by UNHCR and currently co-chaired by GCR.

<sup>980</sup> Information provided during the 27 September 2023 National Protection Working Group which is organised and chaired by UNHCR and currently co-chaired by GCR.

<sup>981</sup> As per information provided during the 22 February 2024 National Protection Working Group which is organised and chaired by UNHCR and currently co-chaired by GCR.

<sup>982</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS)*, March 2022, available at: <https://bit.ly/43mIVEv>.

<sup>983</sup> As per the MoMA's reply on 16 March 2023 to a relevant question tabled before the Greek Parliament, available in Greek at: <https://bit.ly/3vZBwQG>.

In September 2023, following the devastating flood that struck the region of Thessaly in Central Greece, the authorities announced and immediately evacuated the population of asylum seekers residing in the Koutsochero camp, which numbered over 900 people, including children and vulnerable people. The authorities decided the evacuation of the shelter as a mitigating means to provide accommodation to the flood victims from the affected areas. Yet, the camp's residents were transferred without prior notice, proper preparation, and consideration of their particular needs to other infrastructures in Volos, Katsikas, Thermopylae, and Malakasa. GCR expressed its profound concern regarding the implementation of this measure, as the competent authorities did not provide any information on the conditions of the structures where asylum seekers were transferred, regarding the infrastructure, staffing, access to fundamental goods, psychosocial support, and medical care.<sup>984</sup>

Beyond these points, effective reporting on reception conditions in the mainland stumbles upon the lack of public data and the aforementioned ability of independent actors to maintain effective oversight, which needs to be addressed in itself as an increasingly concerning gap.

## 2.2 Conditions on the Eastern Aegean islands

The situation on the islands has been widely documented and has remained alarming throughout the years, with increased arrivals in the second half of 2023 marking a return to conditions of overcrowding observed in previous years and an accentuation of ongoing challenges.

Between January and December 2023, a total of 25,686 persons were transferred to the mainland from the islands of **Lesvos** (8,438), **Samos** (4,506), **Chios** (1,493), **Kos** (6,211), **Leros** (2,918) or from **other islands** (2,170).<sup>985</sup> Despite these increased efforts, by the end of December 2023, 15,914 persons were still residing in facilities with a designated nominal capacity of 17,737 places, resulting in near all facilities operating beyond their reported capacity.<sup>986</sup>

Namely, on 31 December 2023, the CCAC of Chios, with a reported capacity of 1,014 places, was hosting 1,082 people, the CCAC of Samos, with a reported capacity of 3,650, was hosting 3,890, the CCAC of Leros, with a reported capacity of 2,150, was hosting 2,192, and the CCAC of Kos, with a reported capacity of 2,923, was hosting 3,360. The Lesvos CCAC, on the other hand, with a reported capacity of 8,000 was hosting 5,390.<sup>987</sup>

That being said, as per observations in the field in 2022, which were renewed in 2023, reported capacity does not necessarily equate to the actual capacity of CCACs. For instance, as reported during the Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR, on 19 January 2022, due to increased arrivals, the CCAC Director had informed that shelter availability in the Lesvos CCAC had become scarce, impacting on living conditions. Yet at the time, the CCAC reportedly hosted 1,920 persons, which was significantly less than the facility's reported capacity, which, as per official data, stood at 8,000 places at the time.<sup>988</sup>

Likewise, in September 2023, RSA reported the overnight increase in the officially reported capacity for the Samos CCAC, which without any explanation was increased from 2,040 to 3,659 places.<sup>989</sup> Beyond overcrowding, testimonies refer to conditions of confinement and excessive surveillance. At the same

<sup>984</sup> GCR, *Flood victims and refugees displaced in the same fate*, 15 September 2023, available in Greek at <https://tinyurl.com/j9s527uu>.

<sup>985</sup> MoMA, *Statistics*, Consolidated Reports - Overview: *December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/533t33jw>, table 2.

<sup>986</sup> National Coordination Centre for border Control, Immigration and Asylum, *National Situational Picture regarding the Islands at Eastern Aegean Sea (31/12/2023)*, 1 January 2024, available at: <https://bit.ly/3OFIP83>.

<sup>987</sup> *Ibid.*

<sup>988</sup> For instance, see NCCBCIA, *National Situational Picture Regarding the Islands at Eastern Aegean Sea (19/01/2022)*, 20 January 2022 and *National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2022)*, 1 January 2023. Both can also be accessed on the MoMA's website at: <https://bit.ly/3OFIP83>, under the label 'National Situation: Migrant and Refugee Issue'.

<sup>989</sup> RSA, *Disgraceful living conditions in the 'state-of-the-art' Closed Controlled Access Centre (CCAC) of Samos*, 6 February 2024, available at: <https://bit.ly/3WeIY5Z>.

time, there are significant shortages, particularly of medical and psychosocial staff, interpretation services, and of providing basic necessities (food, bedding, hot water, milk intended for children, medication) and decent accommodation. Indicatively, in the same report, RSA highlights how during 2023 new arrivals in the Samos CCAC have been forced to sleep on the floor, without mattresses, in a room originally intended to serve as a restaurant, due to the lack of actual accommodation places. Additionally, those residing in the public areas are subjects of constant surveillance, as the CCTV System inside the restaurant operates unceasingly on a 24/7 basis, violating the individual's privacy.<sup>990</sup>

On 18 September 2023, in a case supported by the Human Rights Legal Project, the European Court of Human Rights (ECtHR) granted interim measures in a case concerning a vulnerable single mother, survivor of gender-based violence, and her 6 months-old daughter, who has a congenital heart disease. The applicants had arrived in **Samos** in August of the same year and had been assisted by MsF, who had asked for the applicants' immediate transfer to the island's General Hospital, where the applicants were informed that they should be transferred to Athens, in order for the minor to be able receive proper medical care. Despite this, the applicants were taken back to the Samos CCAC, where they remained *de facto* detained pending reception and identification procedures and the registration of their asylum application for close to a month. The Court indicated to the Greek government to ensure that the minor applicant be provided with appropriate medical care and that both applicants be ensured adequate living conditions, taking into account their extreme vulnerability.<sup>991</sup>

Less than five months later, on 7 February 2024, the ECtHR once more granted interim measures in a case represented by the organisation I Have Rights, concerning yet again a single mother and her infant child (the applicants) in the **Samos** CCAC. The applicants had been detained upon arrival to the CCAC in degrading conditions, without an assessment of their vulnerabilities. They were forced to share a bunk bed with an unrelated adult man and were humiliated by being forced to remain in the same clothes for weeks on end. They were also without access to medical treatment and relied on others to collect food on their behalf due to fears for their safety, as the line for food was hours long, with fights often breaking out. Additionally, the mental health of the woman rapidly deteriorated since arriving to the CCAC and there were concerns as to the health of the infant who had not been provided with a cot, toys, sufficient diapers or access to medical checkups. The Court ordered the Greek authorities to urgently accommodate the applicants in a safe and suitable accommodation and to ensure they are provided with adequate food, water, clothing and medical care.<sup>992</sup>

On 30 November 2023, in the case of D.S. v Greece (Application no. 2080/2019) represented by GCR, the ECtHR also found Greece in violation of article 3 (prohibition of torture or inhuman or degrading treatment or punishment) and articles 3 and 13 (right to effective remedy) of the European Convention on Human Rights, on account of the inhuman, degrading and unsafe living conditions to which a young single woman applicant was exposed to during her stay in the former reception facility of **Samos**, for specific periods of time in 2018 and 2019. The Court further took into account but rejected the Greek Government's arguments that the applicant had not been identified as a vulnerable person by the authorities and that the country had been facing an unprecedented migratory flow during the critical period which made the authorities' choices difficult. On the contrary, the Court noted that, in view of the migration flow, the authorities did not do everything that could reasonably be expected of them to ensure decent material conditions for the applicant.

On 5 October 2023, in the case of E.F. v. Greece represented by HIAS Greece, the ECtHR similarly found Greece in violations of articles 3 and 13 ECHR, in a case concerning a vulnerable HIV-positive woman who developed highly aggressive HIV-related blood cancer, as a result of the Greek authorities' acts and omissions. The applicant, a victim of torture, who contracted HIV in her country of origin as a result of rape and was under antiretroviral treatment, was unable to receive in **Lesvos**, where she had arrived in

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<sup>990</sup> RSA, *What is happening today in the refugee structures on the Aegean islands*, May 2023, available at: <https://bit.ly/40ZUNus>.

<sup>991</sup> HRLP, *Interim measures granted by the ECtHR for a woman and her daughter on Samos*, 18 September 2023, available at: <https://tinyurl.com/yf5h7btx>.

<sup>992</sup> I Have Rights, *Degrading conditions in Samos CCAC: The European Court of Human Rights grants Interim Measures*, 7 February 2024, available at: <https://tinyurl.com/yac4cmuc>.

December 2019. After being forced to leave in completely undignified conditions in Moria, she only ended up having access to medical treatment 6 months after her arrival, after fainting in a mainland camp where she had been transferred at the time. As a result of the discontinuation of her treatment, her illness progressed from HIV to AIDS, and she developed advanced HIV-related highly aggressive blood cancer, which spread to her cervix, putting her life at risk. The Court found that the 6-month delay in ensuring her access to treatment was entirely attributable to the Greek authorities, who the Court found had failed to take all the measures that could reasonably be expected of them in order to protect the applicant's health.<sup>993</sup>

Though both these decisions concern, amongst others, reception conditions in facilities that are no longer in use, in conjunction with relevant measures indicated by the Court both in previous years,<sup>994</sup> and in cases concerning residents of the new island CCACs, they further highlight the consistently recurring violations of the fundamental rights of asylum applicants recorded on the islands, including in the new - EU funded - facilities.<sup>995</sup>

Regarding **Leros** and **Kos**, as noted by the Head of UNHCR's office in the Dodecanese in October 2023, "*There are more people in the facilities [of Kos and Leros] than their capacity can withstand. [...] There are problems [...] both at the level of delays in registration and with respect to overcrowding and shortages in food items and in medical needs, while the shortages in basic necessities are also dire.*"<sup>996</sup>

On 12 December 2023, in a case represented by GCR, the European Court of Human Rights (ECtHR) granted interim measures with regards two Afghan women and their five accompanied minor children (the applicants), who following their arrival had been residing in the CCAC of **Kos**, in completely unsuitable conditions. On account of overcrowding, the applicants, single women with minor children, who were pending registration, were not provided accommodation and were, instead, placed alongside unrelated single men in the facility's restaurant area, where they were *de facto* detained, forced to live and sleep on the floor, in unsanitary conditions, without access to necessary healthcare, without privacy, and exposed to harassment and to the risk of gender-based violence. The ECtHR ordered the Greek authorities to ensure that the Applicants "*have full access to reception conditions which respect human dignity and take into account their multiple vulnerabilities.*"<sup>997</sup>

In what concerns **Lesvos**, in a joint statement in September 2023,<sup>998</sup> 17 civil society organisations once more raised the alarm over prevalent conditions in the island CCAC, despite efforts to improve them. The organisations *inter alia* noted the severe lack in medical and psychosocial staff, as well as interpreters; the insufficient availability of dignified accommodation places, with many applicants forced to reside in rub halls, with no privacy or partitions, and forced to share rooms and containers with complete strangers, often without a mattress; and the lack of appropriate measures for the protection of particularly vulnerable applicants, such as UAM, single mothers and GBV survivors, who have been forced to reside for prolonged periods of time in a former "quarantine area", amidst a sharp increase in arrivals.

As in previous years,<sup>999</sup> challenges were once more reported during the winter months, especially in December 2023, with respect to **Lesvos** CCAC's residents', and in particular those residing in rub halls, exposure to winter conditions. During the same month, lack of heating throughout the CCAC was also

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<sup>993</sup> HIAS Greece, *The European Court of Human Rights Unanimously Condemns the Greek Government for Depriving an HIV-positive Asylum Seeker From Access to Antiretroviral Treatment*, 9 October 2023, available at: <https://tinyurl.com/2sr3prmt>.

<sup>994</sup> For more, AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 176-177.

<sup>995</sup> GCR, *European Court of Human Rights condemns Greece for the degrading living conditions of a young single woman refugee in Samos*, 18 December 2023, available at: <https://tinyurl.com/3rjr2a3>.

<sup>996</sup> ERT, *UNHCR: Urgent need to decongest the refugee facilities of Leros – Kos*, 24 October 2023, available in Greek at: <https://tinyurl.com/y2pc9z64>.

<sup>997</sup> GCR, *Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures*, 14 December 2023, available at: <https://tinyurl.com/46rjsrjr>.

<sup>998</sup> Joint NGO Statement, *Three Years After Moria Burned Down the Promise "No More Moria's" Remains an Empty One*, 8 September 2023, available at: <https://tinyurl.com/4bb5taac>.

<sup>999</sup> For instance, AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 174-175.

reported, as were challenges with regards to the availability of hot water, adequate lighting, and non-functional showers.<sup>1000</sup> Challenges with the stable supply of electricity in the Lesvos CCAC continued to be reported in the first months of 2023 and were reportedly expected to be resolved towards the end of March.<sup>1001</sup> Yet lack of access to electricity in some sections of the CCAC were still reported in October 2023.<sup>1002</sup>

In 2023, as in the previous year,<sup>1003</sup> infrastructure-related problems, in particular concerning the stable supply of water, continued being reported in the **Samos** CCAC in 2023 and early 2024, during which continuous supply of water was interrupted for a seven-day period, amidst an outbreak of scabies and other skin disorders due to overcrowding.<sup>1004</sup> As noted by the Minister of Migration and Asylum, in the context of a written reply to a parliamentary question in October,<sup>1005</sup> “since April 2023 and for reasons of objective difficulties related to [...] unforeseeable weather conditions (lack of rainfall and consequent water scarcity on the island of Samos), the system of controlled water supply interruption was applied in the Closed Controlled structure of Samos for a few hours during the day”. As per the same reply, efforts to address these shortages were *inter alia* pursued in collaboration with the Municipality of Samos, resulting in the provision of 15 cubic meters of water per day to the facility, and transportation of water to the facility via water carriers, following the conclusion of a contract for the supply of 2,307 cubic meters of water for filling the facility’s water reservoirs. Yet while welcome, such solutions seem to be temporary in nature, and given concurrent nature of such challenges, seem to further underscore the fallacies of an EU policy focused on receiving applicants in remote facilities at the borders.

The islands Centres’ location is usually remote, away from the island’s cities (also see [The European Union policy framework: ‘hotspots’](#)). In combination with their difficult access, due to cost of public transportation, this adds a significant barrier for the centres’ residents to access health care or administrative services. The geographical, and thus social, isolation exacerbates the feeling of imprisonment for asylum seekers residing in reception centres on the islands. For example, Zervou camp in Samos is a closed centre surrounded by a double layer of barbed wire and camera surveillance where entry and exit are only allowed between 8 am – 8 pm. According to the testimony of a 23-year-old man from Afghanistan residing in the camp: ‘When you arrive at the camp doors, one by one they let you inside, to the checkpoint where they check your phone, wallet, pockets, and even the small pockets of your clothes. Then when you want to go inside you have to pass through doors with fingerprints.’<sup>1006</sup>

These inadequate and dangerous conditions have dire consequences on asylum seekers’ mental health. Following a number of relevant reports on the mental health impact issued amongst others by MsF in previous years,<sup>1007</sup> in February 2023, Equal Rights Beyond Borders and Terre des Hommes raised the alarm on the severely deficient conditions prevailing in the “safe area” of the **Kos** CCAC designated for the accommodation of UAM. The organisations referred to a condition of constant surveillance of the area by designated security personnel which combined with the minors’ limited access to recreational activities and school leads to a sentiment of confinement and impacts their mental health.<sup>1008</sup> Testimonies reveal instances of low-quality food, limited quantities of both food and drinking water, and insufficient provisions specifically for children. “We had reached the point of starvation,” one resident at the CCAC of Kos

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<sup>1000</sup> As per information shared during the 14 December 2023 Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR.

<sup>1001</sup> Based on information shared during the Lesvos Inter-Agency Coordination Meetings, operating under UNHCR, on 15 February 2023 and 27 March 2023.

<sup>1002</sup> As per information shared during the 5 October 2023 Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR.

<sup>1003</sup> AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 174-175.

<sup>1004</sup> RSA, *Disgraceful living conditions in the ‘state-of-the-art’ Closed Controlled Access Centre (CCAC) of Samos*, 6 February 2024, available at: <https://bit.ly/3WeIY5Z>.

<sup>1005</sup> MoMA, *reply to parliamentary question no. 721/14.09.2023*, 20 October 2023, available in Greek at: <https://tinyurl.com/3zdbtwzh>.

<sup>1006</sup> FENIX Humanitarian Aid, *One year since Greece opened new ‘prison-like’ refugee camps, NGOs call for a more humane approach*, 20 September 20, available at: <https://bit.ly/3WAQZiZ>.

<sup>1007</sup> AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 175-176.

<sup>1008</sup> Equal Rights Beyond Borders, Terre des Hommes, *Unaccompanied Minors on Kos are deprived of their liberty and childhood*, February 2023, available at: <https://tinyurl.com/yc2y9puj>.



recounts to RSA. Additionally, at the end of March 2023, the shelter lacked medical professionals (doctors and psychologists), and essentials such as clothing and medicines were provided by volunteers.<sup>1009</sup>

Similar dire conditions were reported in the **Leros** CCAC and the facility's "safe area." Shortages of medical personnel and deficiencies in necessities persist, mirroring the situation at the CCAC of Kos. According to the UNHCR, two doctors and one psychologist operated inside the facility, while citizens' collectivity provided basic goods (clothing, shoes, and nappies for children).<sup>1010</sup>

By 31 December 2023, despite for example the 2021 Decision of the European Committee on Social Rights indicating immediate measures and *inter alia* ordering the Greek Authorities to ensure that migrant children in RICs are provided with immediate access to age-appropriate shelters,<sup>1011</sup> 27% of those residing in the island CCACs were children.<sup>1012</sup>

## 2.3 Destitution

Destitution and homelessness still remain matters of concern, despite the efforts made in previous years to increase reception capacity in Greece (see [Types of Accommodation](#)). As stated by UNHCR in February 2020, *[h]ousing options and services to cater for the present population are scarce countrywide*.<sup>1013</sup> Though the population of concern has since been significantly reduced, following the termination of ESTIA in December 2022, this has remained valid in 2022<sup>1014</sup> and particularly in 2023, amidst the sharp increase in arrivals.

During 2023, this was nowhere more evident than in the island of **Rhodes**, which lacks any type of reception facility. As a result, the 6,290 persons reported to have arrived on the island from the start of the year to 10 December 2023, were forced to sleep in parks, pavements, squares, on cardboard boxes, tents and other makeshift shelters, with no access to reception conditions.<sup>1015</sup> This was also on account of serious delays in their transfer to reception facilities on other islands and/or the mainland, further compounded by significant staff shortages *inter alia* raised in a November 2023 open letter of the Union of Police Officers of the Dodecanese, addressed to the head of the Hellenic Police.<sup>1016</sup> Amidst limited efforts to provide newcomers with food by the Municipality of Rhodes, lack of food could have also become a more severe challenge, if not for local volunteers, whose support towards the newcomers, "*well beyond their abilities*", was warmly welcomed by UNHCR's representative for the Dodecanese islands in December 2023.<sup>1017</sup> The prevailing situation, in conjunction with the state's seeming inability to respond, including on account of the overstretched capacity of the reception system, and the resulting impact on disrupting local life, also led to reactions at the local level, with the vice-president of the Commercial Chamber of Rhodes, noting in November that "*[t]his image of young children and destitute people sleeping in cardboard boxes is highly offensive to the island, which is supposed to be the flagship of tourism and hospitality. What will happen when it starts to rain? It's a disgrace for everyone, especially the slow reflexes of the state apparatus.*"<sup>1018</sup>

<sup>1009</sup> Refugee Support Aegean, Kos, *What is happening today in the refugee structures on the Aegean islands*, <https://rsaagean.org/en/kos-2023/>.

<sup>1010</sup> Refugee Support Aegean, Leros, *What is happening today in the refugee structures on the Aegean islands*, <https://rsaagean.org/en/leros-2023/>.

<sup>1011</sup> European Committee of Social Rights, *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, 26 January 2021, available at: <https://bit.ly/3xRs3vf>.

<sup>1012</sup> UNHCR, *Aegean Islands Weekly Snapshot 25 - 31 December (Greek version)*, available at: <https://tinyurl.com/yf8n3s98>.

<sup>1013</sup> UNHCR, *Factsheet, Greece: 1-29 February 2020*, 29 February 2020, available at: <https://tinyurl.com/h7xz7584>.

<sup>1014</sup> AIDA, *Country Report Greece: 2022 Update*, June 2023, available at: <https://bit.ly/45vXAir>, pp. 179-181.

<sup>1015</sup> RSA, *Rhodes: Newly arrived refugees with no shelter and adequate food, at the mercy of winter*, 21 December 2023, available at: <https://bit.ly/448Y5Pt>.

<sup>1016</sup> Rodiaki, *The police officers of the Dodecanese ask for the chief of the Hellenic Police to fulfil his responsibilities*, 3 November 2023, available in Greek at: <https://tinyurl.com/44v8fe5c>.

<sup>1017</sup> ERT, *Th. Stamos: Homeless refugees in Rhodes – Challenges in the facilities of Kos and Leros*, 19 December 2023, available at: <https://tinyurl.com/y9jce7tn>.

<sup>1018</sup> Kathimerini, *Wave of outrage - Improvised camps in the centre of Rhodes*, 3 November 2023, available in Greek at: <https://tinyurl.com/yc5664vh>.

Severe material hardships-deprivation, including in GCR's experience through being called to use unwashed, scabies-infected bedsheets, or via the *ad hoc* use of improper facilities lacking even beds,<sup>1019</sup> were also observed on the island of **Crete**, which similarly lacks any type of reception facility, following increased arrivals to the island in 2023, which have continued during 2024, further accentuating relevant challenges.<sup>1020</sup> A similar situation has developed in **Gavdos**, which likewise lacks any type of reception facility.<sup>1021</sup>

In what concerns the Greek **mainland**, challenges throughout 2023 in accessing asylum, on account of the shortcomings of the MoMA's newly established online registration system, aside from exposing applicants to the risk of arbitrary detention, have also significantly increased the risk of extreme material deprivation for those waiting for their asylum claims to be registered, during which time they lack access to reception conditions.<sup>1022</sup>

Vulnerable persons have also continued facing destitution or related risks. For instance, a May 2023 report by Intersos Hellas, HIAS Greece and GCR, flags how some 5,900 individuals, the majority of whom minors (54%) and their families, residing in **Athens**, have been increasingly forced to reach out to a food programme run by Intersos Hellas, in collaboration with the Greek Forum of Migrants, during the first months of 2023, on account of being faced with moderate to severe levels of food insecurity. Amongst the people benefiting from the programme, near all of whom (99.9%) were third country nationals with different legal statuses in Greece, close to 15% were identified as asylum applicants, while another 21% were people without legal documents, including asylum seekers that had not yet had the opportunity to register their application.<sup>1023</sup>

High levels of food insecurity amongst asylum applicants (including applicants rejected at first instance) and beneficiaries of international protection were also found in a December 2023 research study commissioned by UNHCR, as part of which more than 3,700 persons were surveyed between May and July 2022. As noted in the study, 70% of women respondents and 62% of men respondents had reported being forced to skip meals in the four weeks preceding their participation in the survey, as a (negative) coping mechanism for dealing with economic hardships. An additional 7% of women respondents and 6% of men respondents had reported that a child in their household had to work during the same interval, for the same reason.<sup>1024</sup>

Lastly, the impact of a new practice identified in **Samos**, discussed in previous sections, amounting to the lifting of the geographical restriction for newly arrived applicants, on condition of virtually renouncing their right to reception conditions, needs to also be checked for its potential contribution to enhancing the risk of destitution for applicants, at least for as long as applicants continue not receiving sufficient information, in a language they understand, on the potential consequences of their choice, in order to be able to make fully informed decisions.

In any event, in order for the Greek authorities' compliance with their obligations relating to reception conditions to be assessed, the number of available reception places that are in line with the standards of

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<sup>1019</sup> See RSA, *Crete and Gavdos have no reception and identification procedures despite the increased arrivals*, 19 December 2023, available at: <https://tinyurl.com/29398fmw>.

<sup>1020</sup> NeaKriti, *Chania: the migrant accommodation points at full – 187 persons in an open parking of the Port Authority*, 10 March 2024, available in Greek at: <https://tinyurl.com/39x8dfk9>.

<sup>1021</sup> For more, RSA, *Crete and Gavdos have no reception and identification procedures despite the increased arrivals*, 19 December 2023, available at: <https://tinyurl.com/29398fmw>.

<sup>1022</sup> Also see MIT & RLS, *Protection Unavailable: Dysfunctional Practices and Restrictions on the Right to Asylum*, November 2023, available at: <https://tinyurl.com/53xzvpes>, particularly pp. 26 *et seq*; Joint CSO Statement, *Shutdown of the Greek Asylum Service: Database Leaves People Unable To Claim Asylum And in Limbo*, 21 June 2023, available at: <https://tinyurl.com/338z4d59>.

<sup>1023</sup> See Intersos Hellas, HIAS Greece & GCR, *Being Hungry in Europe: An analysis of the Food Insecurity experienced by Refugees, Asylum Seekers, Migrants and Undocumented People in Greece*, May 2023, available at: <https://tinyurl.com/bdzde7hj>, pp. 11-21.

<sup>1024</sup> Casalis M. et.al., *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at <https://tinyurl.com/ycyacy57>, p. 31.

the recast Reception Conditions Directive should also be assessed against the total number of persons with pending asylum applications, *i.e.*, 32,730 by the end of 2023, as per the MoMA's published data.<sup>1025</sup>

## 2.4 Racist violence

During 2022, the Racist Violence Recording Network (RVRN), coordinated by UNHCR and the Greek National Commission for Human Rights, recorded a total of 74 incidents of racist violence, 33 of which concerned migrants, refugees and asylum applicants on account of their ethnic origin, religion or color.<sup>1026</sup> In the majority of these incidents, the victims were men (27), in 5 the victims were women, while in 1 the victims were both men and women of different ages, including minors. In what concerns main nationalities, most of the victims were from Pakistan (8), followed by nationals of Afghanistan (7) and Palestinians (5), while in terms of their legal status, in the majority of incidents (11) the victims were asylum applicants, in 7 incidents the victims were beneficiaries of international protection and in 9 incidents third country nationals with different legal statuses, including undocumented persons. In 2 incidents the victims had mixed legal statuses, while in 4 the victims were unaccompanied minors.<sup>1027</sup>

During the same year, a total of 126 incidents were recorded by the Hellenic Police. In 66 of these incidents, the motive seems to have regarded the victims' ethnic origin, in 7 cases their genealogical background, in 10 cases their color, in 8 cases their religion, in 9 cases their sexual orientation, in 16 cases their gender identity, and in 7 cases disabilities. The remainder of cases either regarded unspecified motives (10) or other motives (74).<sup>1028</sup>

As noted by RVRN,<sup>1029</sup> based on the Network's findings, the main patterns identified in 2022 are "*the existence of racism in everyday life, the occurrence of incidents of organised racist violence, albeit to a limited extent, and the targeting of human rights defenders within Greek territory, especially those operating at the borders*", while the Network also recorded incidents in which the perpetrators either wore uniforms or were civil servants. While noting a decrease, compared to previous years,<sup>1030</sup> on the number of incidents of extreme racist violence perpetrated by organized groups, the RVRN also reported an ongoing pattern of under-reporting of racist violence incidents, flagging, in line with its findings of previous years, that "*a significant number of victims do not report [such incidents] out of fear of secondary victimisation or re-victimisation*".<sup>1031</sup>

As identified by RVRN,<sup>1032</sup> amongst the factors contributing to this pattern of under-reporting and fear from the victims' side, while "*fueling the feeling of impunity*" on the side of perpetrators, is also the significant number of recorded incidents where the perpetrators were identified, by the victims, as "*representatives of the state and indeed [from state bodies] with the competence to protect*".

Namely, in 20% of incidents recorded in 2022, most of which regarded refugees and migrants, as well as Roma citizens, the perpetrators were identified as uniformed personnel of the Greek security forces, with most incidents taking place at the Greek borders, in reception facilities or detention facilities, including in police precincts. In many of these incidents the level of violence was also particularly high, with victims *inter alia* reporting being held without clothing or found by human rights defenders handcuffed, in a forest area near the borders, after reportedly being brutally beaten by a group of men in black clothes, with their faces covered, which were carrying weapons and radio equipment. In at least one of these cases, the

<sup>1025</sup> MoMA, *Statistics, Consolidated Reports - Overview: December 2023 - International Protection | Appendix A*, available at: <https://tinyurl.com/533t33jw>, table 11a.

<sup>1026</sup> In another incident the motive seems to have been the victim's ethnic origin, as much as their sexual orientation, in another one the victims were Greek citizens, targeted on account of their ethnic origin, while in 2 incidents the targets were a mosque and a holocaust memorial. In the remainder of recorded cases (38), the victims were persons of the LGBTQI+ community. RVRN, *Annual Report 2022*, April 2023, available in Greek at: <https://tinyurl.com/27bdrxje>, p.5.

<sup>1027</sup> *Ibid.* p. 15

<sup>1028</sup> *Ibid.* p. 28.

<sup>1029</sup> *Ibid.* p.5.

<sup>1030</sup> On the reported situation in previous years, *inter alia*, see AIDA, *Country Report Greece: 2022 Update*, *op.cit.*, pp. 181-183 and previous relevant reports, available at: <https://bit.ly/3OFfA4i>.

<sup>1031</sup> *Ibid.* p.6.

<sup>1032</sup> *Ibid.* p.25.

victim had been the subject of racist-motivated attacks in 2021 as well, when they had asked their employer, a police officer themselves, to be paid what they were owed for their work. Instead, the employer had called the police, who, as reported by the victim, threatened them and other employees with the use of a firearm upon arriving.<sup>1033</sup>

In what concerns 2023, though the RVRN's relevant report had not yet been issued by the time of writing, a number of incidents with racist elements have come to public attention.

Two of these incidents, reported by the United Against Racism and the Racist Threat Movement (ΚΕΕΡΦΑ), concerned attacks against migrant workers – one of which at the victim's workplace– in the broader area of **Athens** on 15 June and 9 July 2023 respectively. In both cases, the victims were both verbally and physically attacked, with the Movement attributing the attacks to the “*whetted appetite*” of fascist groups, after the entry of the far-right Spartans party in the Greek Parliament, following the summer national elections.<sup>1034</sup>

A month later, in August 2023, a young Pakistani national was found dead in another area of Athens, which has been known as an area where migrant workers are frequently attacked by fascist groups. The perpetrators of the act, four Greek nationals aged between 18 and 20 years, were apprehended by the police, which in a relevant announcement seems to have concluded the motive behind the act was the perpetrators' intention to rob the victim. Yet, elements of the incident, such as the victims' belongings, including their phone, being found next to their body instead of being taken, or the mode of the attack (stabbing, including at the victim's heart), which was reminiscent of the racist-motivated murders of Shahzad Luqman and Pavlos Fyssas, have raised questions over the perpetrators' actual motive.<sup>1035</sup>

Lastly, in the same month, amidst one of the most devastating fires in recent memory that broke out in the region of **Evros**, a noticeable increase in racist speech and calls to relevant action against refugees and migrants broke out in social media, strengthened by statements made even by representatives of the Greek parliament, who tried to attribute the cause of the fires to the actions of people on the move. As reported, several ‘self-appointed sheriffs’ took it upon themselves to manage what they perceived as the problem, and started patrolling the area and arresting migrants, while publicizing their actions via social media.<sup>1036</sup>

Amidst this rise of racist-motivated vigilantism, the most well-known incident concerns the actions of three residents of Evros, who virtually abducted a total of 13 third country nationals, forcibly placing them in a trolley, pillorying them, and posting videos of the act in which highly derogatory language is used to describe the captives (“pieces”). The perpetrators were apprehended and prosecuted on a number of grounds, while in December, the competent Prosecutor recommended for the perpetrators to be prosecuted on the basis of a racist-motivated crime. The 13 former captives were acquitted as they were found to be in no way linked to acts of arson of forest land, albeit the Prosecutor recommended their prosecution on grounds of illegal entry.<sup>1037</sup>

Commenting on the incident, in a 25 August announcement,<sup>1038</sup> the RVRN *inter alia* expressed its concern over the non-isolated nature of such incidents, while flagging the “*deteriorating climate against refugees and migrants in the political and public discourse*”. On this point, it is worth recalling that in an August parliamentary debate, the Greek Prime Minister also alluded to the potential implication of third country

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<sup>1033</sup> *Ibid.* pp. 24-26.

<sup>1034</sup> In.gr, *KEERFA: Denounces racist fascist attacks on migrant workers in Sepolia and Peristeri*, 10 July 2023, available in Greek at: <https://tinyurl.com/khvkbm6f>.

<sup>1035</sup> In.gr, *The murder of a 25-year-old Pakistani man was solved - 4 young men were arrested*, 19 August 2023, available in Greek at: <https://tinyurl.com/bde3snsu> and *Murder of Shiraz Shaftar: Who killed the migrant worker from Pakistan in Perissos?*, 18 August 2023, available in Greek at: <https://tinyurl.com/4289dytw>.

<sup>1036</sup> Kathimerini, *Evros: Fires burn for the tenth day, vigilantism takes root*, 28 August 2023, available in Greek at: <https://tinyurl.com/34uvvfyk>.

<sup>1037</sup> EfSyn, *Evros: Prosecutor's proposal on racist crime for the "sheriffs" and exoneration for the migrants*, 12 December 2023, available in Greek at: <https://tinyurl.com/5a6fw57w>.

<sup>1038</sup> RVRN, *Racist Violence Recording Network expresses serious concern over escalating targeting of refugees and migrants*, 25 August 2023, available at: <https://tinyurl.com/3x6canzj>.

nationals in the raging Evros fires, stating that "It is sort of (περίπου) certain that the cause of the fire in Evros is man-made" and that "It is sort of (περίπου) certain that this fire started on routes used by illegal migrants",<sup>1039</sup> with Vouliwatch attributing these statements, amongst others, to an attempt "to stir up xenophobic reflexes [in an effort] to shift the debate away from any responsibility of the state".<sup>1040</sup> The RVRN also "underscored [that], such phenomena normalize, encourage, and ultimately escalate racist reactions, firstly in the media and social media, that sometimes result in attacks on the street, with the clear risk of irreparably disrupting social cohesion".

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

- |   |   |
|---|---|
| 1. Does the law allow for access to the labour market for asylum seekers?<br>❖ If yes, when do asylum seekers have access the labour market?<br>the lodging of the asylum application | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br>60 days from |
| 2. Does the law allow access to employment only following a labour market test?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                 |
| 3. Does the law only allow asylum seekers to work in specific sectors?<br>❖ If yes, specify which sectors:  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                 |
| 4. Does the law limit asylum seekers' employment to a maximum working time?<br>❖ If yes, specify the number of days per year  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                 |
| 5. Are there restrictions to accessing employment in practice?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                 |

Access to the labour market is the means for applicants and beneficiaries of international protection to integrate into the social environment, regain their autonomy and self-esteem and feel empowered.

Up until the end of 2019, asylum seekers had access to the labour market as employees or service or work providers from the moment an asylum application had been formally lodged and they had obtained an asylum seeker's card.<sup>1041</sup> Applicants who had not yet completed the full registration and lodged their application (*i.e.*, pre-registered applicants), did not have access to the labour market. As noted in [Registration](#), the average time period between pre-registration and full registration across mainland Greece (registration via Skype) was 44 days in 2019.<sup>1042</sup> Similar data for 2023 is not available at the time of writing.<sup>1043</sup>

Following the entry into force of the IPA on 1 January 2020, a six-month time limit for asylum seekers' access to the labour market was introduced and continued to be applied under the Asylum Code, until the latter was amended by [L. 5078/2023](#) (article 192) in a welcome development in December 2023. Following this, article 57 Asylum Code, as amended, provides that applicants have a right to access the labour market within sixty days of the lodging of their application and the receipt of the relevant legal documents, as long as no first instance decision has been taken by the Asylum Service, and the delay cannot be attributed to the applicant.<sup>1044</sup>

The amendment, coming at a time of significant shortages in Greece's labour market, was part of new legislation that also introduced the possibility of undocumented third country nationals to regularise their status, *inter alia* subject to being able to present a job offer, and has been welcomed by UN Agencies as

<sup>1039</sup> Ethnos, Mitsotakis: *It is sort of certain that the fire in Evros was started by a human hand - It started from migrant routes*, 31 August 2023, available in Greek at: <https://tinyurl.com/3ms5an7p>.

<sup>1040</sup> Vouliwatch, Mitsotakis: *"It is certain that the fire in Evros was started by a human hand - It started from migrant routes*, 31 August 2023, available in Greek at: <https://tinyurl.com/nav45vyv>.

<sup>1041</sup> Article 71 L 4375/2016, as previously in force; Article 15 L 4540/2018 as previously in force.

<sup>1042</sup> Information provided by the Greek Asylum Service on 17 February 2020.

<sup>1043</sup> Information provided by the Office of Analysis and Studies of the MoMA on 31 March 2021.

<sup>1044</sup> Article 57(1) Asylum Code, as amended by article 192 L. 5078/2023.

a step forward, with the potential for bringing positive results for both third country nationals and locals. As noted by the Representative of UNHCR in Greece:<sup>1045</sup>

*“These measures are a step in the right direction. They respond in a pragmatic manner to workforce needs in Greece’s productive sectors that remain unfulfilled and promptly puts asylum-seekers on the path to self-reliance and inclusion, which in the end will yield significant socio-economic returns for all [...] The amendment is a positive example of political will to dismantle barriers that render people invisible and marginalized, contributing to the broader prosperity of the Greek economy and society”.*

As long as they hold a valid asylum applicant card, article 57(2) Asylum Code provides them access to paid employment or the provision of services or work throughout the period of validity of the card. Applicants are also under an obligation to inform the competent reception authority of any professional activity they engage in (commencement of a profession, contract of employment), and submit relevant documentation. Failure to comply with this obligation can lead to the reduction or withdrawal of material reception conditions in accordance with article 61 Asylum Code.<sup>1046</sup> Lastly, the right is automatically withdrawn upon issuance of a negative decision which is not subject to an automatically suspensive effect, and applicants lack the right to stay on the Greek territory.<sup>1047</sup>

That being said, observations made by the Council of Europe Commissioner for Human Rights in 2018, still remain valid in 2023. Specifically, in her 2018 report, the Commissioner had emphasized that access to the labour market is seriously hampered by the economic conditions prevailing in Greece, the high unemployment rate, further obstacles posed by competition with Greek-speaking employees, and administrative obstacles to obtain necessary documents, which may lead to undeclared employment with severe repercussions on the enjoyment of the basic social rights.<sup>1048</sup>

Despite a notable 3% decrease in a period of 12 months (Dec. 22-Dec. 23), unemployment rates remained high in Greece in 2023, standing at 9.2% in December. These rates remain higher than the average unemployment rate throughout the euro area (6.4%) and the EU (5.9%) and were second only to Spain (11.7%).<sup>1049</sup>

Data collected through an ongoing survey conducted under the coordination of UNHCR, between February 2022 and March 2024,<sup>1050</sup> helps provide some further contextualisation to the challenges. Namely, based on a total of 107 surveys carried out during the reference period with the participation of households in the asylum procedure or pending registration (fully registered, pre-registered and unregistered while willing to apply for asylum), the vast majority of respondents (80%) were either not working (63%), in most cases during the 12-month period preceding their participation to the survey, or were only able to find occasional work (17%). Moreover, of those working on a regular (20%) or occasional (17%) basis, the majority (56%) were doing so without any type of legal contract, indicating significant levels of labour exploitation. Lack of knowledge of the language, lack of documentation and the inability to find legal employment were noted as the main three challenges with respect to finding work in Greece, followed by the lack of knowledge on how to find employment and the lack of day care for the children, which to GCR’s experience particularly affects single parent households with a female head.

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<sup>1045</sup> UNHCR & IOM, *UNHCR and IOM welcome new amendment facilitating access to labour for migrants and asylum-seekers*, 19 December 2023, available at: <https://tinyurl.com/39m8xwtk>.

<sup>1046</sup> Article 57(4) Asylum Code.

<sup>1047</sup> Article 57(3) Asylum Code.

<sup>1048</sup> Council of Europe, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, available at: <https://bit.ly/2lwG4EG>, paras 54-55.

<sup>1049</sup> Eurostat, *December 2023: Euro area unemployment at 6.4%*, 1 February 2024, available at: <https://tinyurl.com/2s36p6yb>;

<sup>1050</sup> See UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://tinyurl.com/3z6t3y9f>. For the data presented in this paragraph filters have been used, in order to only include the data arising from the surveys carried out with households that were clearly still in the asylum procedure or were waiting for their application to be registered.

Discrimination/racism was also noted as a hindering factor in 5 out of 107 cases, while in only 2 cases did respondents state they did not wish to find work in Greece at the time.

A December 2023 study commissioned by UNHCR, as part of which more than 3,700 applicants and beneficiaries of international protection were surveyed between May-July 2022, seems to further corroborate this data. Namely, as per the study's findings,<sup>1051</sup> of the total participants of the survey, 64% were not working in the 4 weeks preceding their participation to the survey, even though more than half (52%) were actively looking for work. Of the rest of those not working, slightly more than 1 in 10 (11%) stated they had been doing unpaid work, 9% that they were unable to work on account of sickness or disability and close to 1 in 4 (24%) were at the time not looking for a job. The study also identified a gender-based gap vis-a-vis access to employment, with women being affected to a significantly higher degree than men (women unemployment stood at 82%, as opposed to 54% for men). Interestingly, no significant difference vis-à-vis employment was found based on respondents' legal status, with unemployment affecting to near similar extents applicants (66%) and beneficiaries (62%) of international protection. By contrast, the correlation between the type of accommodation and employment was much more pronounced, with applicants and beneficiaries who were self-accommodated displaying significantly higher degrees of access to employment (68%) compared to those residing in the former ESTIA scheme or supported through the Helios project (16%) and even more so compared to those residing in camps (10%). This seems to re-affirm persisting challenges in accessing the labour market for applicants residing in mainland camps, on account of the secluded nature of their accommodation and prolonged displacement, reported in previous years.<sup>1052</sup>

High levels of exploitation/undocumented labour were also found by the study, with only 36% of working applicants (and 48% of beneficiaries), being able to do so with a formal contract, while in all cases of those working, wages were identified as being much lower than the Greek national minimum wage, even though weekly working hours were in 41% of cases similar to average working hours for Greek nationals and in 22% of cases more (60-hour working weeks). A third of participants (31% in the case of men and 233% in the case of women) also reported feeling discriminated against in the labour market, while a very high percentage of all participants (68%) reported having to resort to negative coping mechanisms, such as skipping meals, on account of economic hardships.<sup>1053</sup>

In another survey conducted by GCR, IRC, and Diotima between November 2021 and April 2022, which reached more than 180 respondents, lack of Greek and/or English courses, the lack of a social network and connection with the Greek labour market, insufficient information on the relevant procedures, obstacles in recognising their qualifications and skills, prolonged displacement, secluded accommodation, or restriction of movement imposed, delays in access to the asylum system on mainland Greece, and racism and discrimination, were among the main issues reported.<sup>1054</sup>

Based on the same survey,<sup>1055</sup> the main obstacle in finding employment for both applicants and beneficiaries of international protection was correlated with the lack of Greek and/or English language competence, a prerequisite for any job in the Greek labour market. Lack of access to sponsored or free workshops by the Greek Manpower Employment Organisation (OAED), according to the social service of GCR, and a gap in Greek language programs, which, however, is covered, as far as possible, free of charge by non-governmental organisations. The sole exception is the HELIOS programme, which is however addressed to beneficiaries of international protection, providing integration courses, including 280 hours of the Greek language. Also, according to the data provided by UNHCR, the primary problem

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<sup>1051</sup> Casalis M. et al., *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at <https://tinyurl.com/ycyacy57>, pp. 24-26.

<sup>1052</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>, p. 185 and AIDA, *Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>, p. 184.

<sup>1053</sup> *Ibid.*, pp. 28-32.

<sup>1054</sup> GCR, *Do the human right thing: Seeking a new life, seeking employment*, March 2022, available at: <https://bit.ly/42eyDWf>.

<sup>1055</sup> *Ibid.*

in accessing the labour market identified by the respondents-asylum seekers (61, *i.e.*, 76%) is Greek language competence.<sup>1056</sup>

As in previous years,<sup>1057</sup> asylum seekers have also continued facing obstacles in opening bank accounts. Based on data collected through the abovementioned ongoing survey conducted under the coordination of UNHCR, as part of which 107 asylum applicant households (fully registered, pre-registered and unregistered while willing to apply for asylum) were reached between February 2022 and March 2024, 62% of respondents did not have a bank account, with main causes relating to procedural challenges, including, in 10 out of 107 cases, their request being declined, though in 16 out of 107 cases respondents stated they did not wish or need a bank account.<sup>1058</sup> On the other hand, based on the same survey, issuance of a VAT verification number (AFM) seems to have been somewhat streamlined in recent years, with 87% of applicants stating they had been able to obtain said number, even though 35% of respondents reported that they required support in order to be able to issue it.

Another obstacle hindering the employment procedure for asylum seekers is their inability to prove and recognise existing education and training qualifications, as, due to the circumstances forcing them to leave their homes, many do not have their original diplomas of study or other relevant certification with them,<sup>1059</sup> nor, in GCR's experience, can they issue copies in Greece, despite the European Qualification Passport for Refugees (EQPR), which could be used to recognise studies from third countries outside the EU.

As regards vocational training, Article 17(1) L 4540/2018 provides that applicants can access vocational training programmes under the same conditions and prerequisites as foreseen for Greek nationals. The same is reiterated in Article 58 (1) Asylum Code. However, the condition of enrolment "*under the same conditions and prerequisites as foreseen for Greek nationals*" does not take into consideration the significantly different circumstance faced by asylum seekers, and in particular, the fact that they may not be in a position to provide the necessary documentation.<sup>1060</sup> Article 58 (2) Asylum Code provides that the conditions for the assessment of applicants' skills who do not have the necessary documentation will be set by a Joint Ministerial Decision of the Ministers of Labour and Social Affairs, Education and Religious Affairs and Migration and Asylum. As far as GCR is aware such a decision had not been issued by the end of 2023.

## 2. Access to education

### Indicators: Access to Education

- |  |  |
|--|--|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    |
| 2. Are children able to access education in practice?                        | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>Not always |

According to Article 55 Asylum Code, asylum-seeking children are required to attend primary and secondary school under the public education system under similar conditions as Greek nationals. Also, children from the age of four are also required to attend pre-primary school. Compulsory education includes pre-primary, primary and lower secondary education. Primary education (Dimotiko) lasts six

<sup>1056</sup> See UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://bit.ly/43dZsuK>.

<sup>1057</sup> For more, *inter alia* see AIDA, *Country Report Greece: 2022 Update*, available at: <https://bit.ly/3PUOVk9>, pp. 185-186.

<sup>1058</sup> See UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://tinyurl.com/3z6t3y9f>. For the data presented in this paragraph filters have been used, in order to only include the data arising from the surveys carried out with households that were clearly still in the asylum procedure or were waiting for their application to be registered.

<sup>1059</sup> For instance, as per the aforementioned ongoing survey carried out under the auspices of UNHCR between February 2022 and March 2024, 44% of applicants (registered or pending registration) who had an undergraduate or higher degree of education, did not have original copies with them. UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://tinyurl.com/3z6t3y9f>.

<sup>1060</sup> GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: <https://bit.ly/42sh0Cb>.



years and lower secondary education (Gymnasio) lasts three years.<sup>1061</sup> Children who are applicants of international protection are obliged to attend school and competent authorities are obliged to provide the necessary and adequate means to support and facilitate the relevant procedure. Before the age of 5, children can also attend infant centres (vrefonipiakos stathmos from 6 months old) and child centres (paidikos stathmos – from 2 1/1 years old) run by the municipalities.<sup>1062</sup>

The integration takes place under similar conditions to those that apply to Greek citizens. Contrary to the previous provision,<sup>1063</sup> the IPA (L 4636/2019) and afterwards Asylum Code does not mention education as a right but as an obligation. Facilitation is provided in case of incomplete documentation, as long as no removal measure against minors or their parents is actually enforced. Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity. Registration is to take place no longer than 3 months from the identification of the child, while non-compliance on behalf of the applicants, on account of a potential “*unwillingness to be included in the education system*” is subject to the reduction of material reception conditions and to the imposition of the administrative sanctions foreseen for Greek citizens to the adult members of the minor’s family.<sup>1064</sup>

A Ministerial Decision issued in September 2016, which was replaced in 2017 by Joint Ministerial Decision 139654/ΓΔ4 (B’ 2985/30.08.2017), established a programme of afternoon preparatory classes (Reception School Facilities for Refugee Education – DYEP classes / Δομές Υποδοχής και Εκπαίδευσης Προσφύγων - ΔΥΕΠ) for all school-aged children aged 4 to 15.<sup>1065</sup> The programme is implemented in public schools neighbouring camps or places of residence. The organisation, operation, coordination and training program of DYEP classes is supervised by the Refugee Education Management, Coordination and Monitoring Team as defined by the Secretary General of the Ministry of Education, in cooperation with the competent Directorates of the Ministry of Education, the competent Regional Directorates of Education and the competent Directorates of Primary and Secondary Education.<sup>1066</sup>

The location and operationalisation of the afternoon preparatory classes is subject to the yearly issuance of a Joint Ministerial Decision (exceptionally a Decision by the Minister of Education and as of 2019 a Decision by the Deputy Minister of Education). Such decisions have been respectively issued for each school year up to the current school year 2023-2024.<sup>1067</sup>

Children aged between 6-15 years, living in dispersed urban settings (such as squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enrol in the morning classes alongside Greek children, at schools that will be identified by the Ministry. This is done with the aim of ensuring a balanced distribution of children across selected schools, as well as across preparatory classes for migrant and refugee children where Greek is taught as a second language.<sup>1068</sup>

Although the refugee education programme implemented by the Ministry of Education is highly welcome, the school attendance rate should be reinforced, while special action should be taken in order for children remaining on the islands and in remote camps to be guaranteed access to education. Language is also a barrier for refugee and asylum-seeking children to integrate into school. The creation of reception classes is foreseen by law, but in practice, these classes do not always start on time due to understaffing or to their insufficient number, leading children who do not understand Greek to be practically excluded from the educational system, because they encounter great difficulties to understand the subjects taught.

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<sup>1061</sup> Article 88 of L 4871/2021, which modified article 2 of L 1566/1985.

<sup>1062</sup> UNHCR, *Help Greece - Access to Education*, available at: <https://tinyurl.com/yc8rjwrc>.

<sup>1063</sup> Article 13 L 4540/2018.

<sup>1064</sup> Article 55(2) of L 4939/2022.

<sup>1065</sup> Joint Ministerial Decision 180647/ΓΔ4/2016, GG 3502/2016/B/31-10-2016, available in Greek at: <https://bit.ly/36W3cDn>.

<sup>1066</sup> Article 1 par. 4 of JMD 139654/ΓΔ4 (B’ 2985/30.08.2017).

<sup>1067</sup> For the current school year, see Ministerial Decision Φ1/83371/ΚΓ/Δ1 (27.7.2023), available in Greek at : <https://tinyurl.com/35ncu83n>; and Ministerial Decision Φ1/134064/ΚΓ/Δ1 (27.11.2023), available in Greek at: <https://bit.ly/44dzsAW>, that supplemented Ministerial Decision Φ1/83371/ΚΓ/Δ1 (27.7.2023).

<sup>1068</sup> Refugee Info Greece, *School program for kids 6 to 15*, last updated on 28 March 2024, available at: <https://bit.ly/3xUbn6o>.

In a Save the Children report published in January 2024, children in Greece stated: “We go every day. But we do not learn because we do not understand a thing. There is no Greek lesson for the moment.” “We stay separate from other children, because we do not yet speak the language.”<sup>1069</sup>

According to UNICEF’s Annual Report on Greece for 2023, it was estimated that by October 2023, there were 25,000 refugee and migrant children in Greece, including 7,000 children from Ukraine, while by the end of the year the number of unaccompanied and separated children was 2,000. Moreover, as of the end of 2023, 15,134 refugee and migrant children, including 1,289 children from Ukraine, were enrolled in schools.<sup>1070</sup> According to the available data provided by the Ministry of Education, as of 10 January 2024, out of the total 15,134 children enrolled, 14,222 actually attended.<sup>1071</sup>

**The school year 2022-2023** was marked by positive developments in some areas compared to previous school years 2020-2021 and 2021-2022.<sup>1072</sup> Notwithstanding, certain actions still need to be undertaken. In particular, during school year 2022-2023 according to the study of Foster Educators<sup>1073</sup> on school attendance of 2,173 children from 53 (out of 79) accommodation shelters:

There seems to be an increase of the **enrolment** rate compared to school years since 2020.<sup>1074</sup> In particular, during school year 2022-2023, 1 in 6 children was not enrolled in school, due to different factors, mainly because of the mobility or short stay of children in the accommodation structures, the denial of schools to enroll children because of their arrival in the accommodation facility at the end of the school year (after March), the limited school capacity when the maximum number of students is enrolled and the lack of reception classes (*i.e.*, supportive classes -running in parallel with the regular classes- with the aim to help children who lack the necessary knowledge of Greek to better integrate the regular classes), when the deadline for their creation has passed or when the prescribed minimum number of 7 students is not met.<sup>1075</sup>

**Moreover, according to the above-mentioned study of Foster Educators, attendance** during the school year 2022-2023 decreased compared to the previous year 2021-2022. In general, during school year 2022-2023, about 3/4 of the children enrolled, dropout of school.<sup>1076</sup> In particular, in secondary education where the dropout rate is significant, from the children who remain in the accommodation structures, 2 out of 5 drop out of school and of the ones that manage to reach the end of the school year, half are rejected due to absences. Only 1 out of 12 children enrolled in secondary education was promoted to the next class (8.16%) with the other 11 out of 12 children (91.84%) either rejected or dropped out of school.<sup>1077</sup> GCR observed that none of the children accommodated in Sindiki structure (camp) in Northern Greece were attending school –even if enrolled- from the beginning of the school year 2023-2024 due to lack of transportation. GCR made an intervention towards the competent authorities and only at the beginning of March 2024 was the issue of transportation finally resolved.

Moreover, according to the study of the Foster Educators, schools’ inability to create an efficient and attractive integration environment for refugee and migrant children, the administrative weaknesses of the accommodation structures, the deficits in personnel, material resources and educational know-how of both schools and accommodation structures and mobility are the main reasons for dropout.<sup>1078</sup> In particular, regarding mobility of children and their families from one accommodation place to another (*i.e.* due to administrative procedures regarding their asylum or due to camps’ closure), a dramatic increase

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<sup>1069</sup> Save the Children, *Hope and Harm: Children’s Experiences of Seeking Safety in Europe*, January 2024, p. 21, available at: <https://tinyurl.com/r2d2whe2>.

<sup>1070</sup> UNICEF, *Country Office Annual Report 2023 - Greece*, p. 2, available at: <https://bit.ly/4baeZiL>.

<sup>1071</sup> Information provided by the Ministry of Education on 27 February 2024.

<sup>1072</sup> For more on the school years of 2020-2021 and 2021-2022, see *AIDA – Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>, p. 187 et seq.

<sup>1073</sup> FOSTER EDUCATORS, *School attendance of unaccompanied refugee minors during the 2022-23 school year*, December 2023, available in Greek at: <https://tinyurl.com/2k5xepn2>.

<sup>1074</sup> *Ibid.* p.18.

<sup>1075</sup> *Ibid.* pp. 17-18.

<sup>1076</sup> *Ibid.* pp. 38-39.

<sup>1077</sup> *Ibid.* p. 15.

<sup>1078</sup> *Ibid.* pp. 38-39.

(almost doubled) was observed compared to last year, mainly in the mobility of unaccompanied children.<sup>1079</sup>

GCR has also observed -mainly through its intercultural center PYXIDA- that attendance seems to be decreased during the school year 2022-2023, mainly due to the closure of ESTIA accommodation program and the removal of families and their children from the center of Athens and their confinement in camps outside Attica. As a result, children had to start from zero in remote areas under harsh living conditions and with very limited possibilities of accessing school. In their letter to the authorities in May 2023, 32 Refugee Education Coordinators condemned the very poor living conditions of asylum seekers in the accommodation structures in Greece and in the new –prison-like- Closed Controlled Access Centres (CCACs), which are an obstacle to children’s access to public education due to the distance of the structures from schools, thus the drastic limitation of the communication of the children with their peers outside the structure, the impossibility for them to participate in social activities and the suffocating situation for the development and inclusion of children.<sup>1080</sup>

Regarding adequate staffing and timely scheduling of reception classes, it seems that the same problems remain, meaning the significant delays and insufficient number of teachers recruited in staffing reception and DYEP classes. In particular, according to the above-mentioned study of Foster Educators, the majority of the supportive reception classes -mainly for Greek language- started in November 2022, with schools even starting reception classes in February, March or even April 2023, with a number of them stopping very early (February or March) due to teacher transfers or placements.<sup>1081</sup>

Moreover, regarding the inclusiveness of education, UNICEF’s project *All Children in Education (ACE)* continued during the school year 2022-2023; ACE project aims to facilitate the integration of refugee and migrant children in formal education through non-formal education services, such as interpretation services in schools, Greek language courses, psychosocial support for students and teachers’ empowerment. During the school year 2022-2023, ACE programme was provided in up to 38 locations and accommodation facilities.<sup>1082</sup>

After the age of 18, asylum seekers and refugees may attend several educational programs run by state or private agencies, NGOs and other organisations, such as schools of Second Chance (for adults who have not completed mandatory education) and centres for Lifelong Learning operate in municipalities. Adult asylum seekers who have graduated from secondary education may participate in examinations to enter Universities or Higher Technological Institution or register in the Institutes of Vocational Training (IEK).<sup>1083</sup> Beneficiaries of international protection are treated in the same way as Greek citizens regarding recognition of foreign diplomas, certificates, and evidence of formal qualifications, and if there is inability to provide evidence of such qualifications, the Greek authorities should facilitate the process<sup>1084</sup>.

Education is linked to the grant of a special residence permit given to UAMs who have reached adulthood, according to the new provision of article 161 para 1c’ of L 5038/1.4.2023 (Migration Code),<sup>1085</sup> which states that: “*Third country nationals residing in the country are granted a ten-year residence permit, which grants the right to full access to the labor market, provided that: [...] c) are adult third country nationals or*

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<sup>1079</sup> *Ibid.* pp. 26, 51-52.

<sup>1080</sup> Alfavita, *Εκπαίδευση προσφυγόπουλων: SOS από Συντονιστές εκπαίδευσης για κλειστές δομές – ‘ανοικτές φυλακές’*, 15 May 2023, available at: <https://bit.ly/4aR2vgh>.

<sup>1081</sup> FOSTER EDUCATORS, *School attendance of unaccompanied refugee minors during the 2022-23 school year (in greek -Η σχολική φοίτηση των ασυνόδευτων ανήλικων προσφύγων κατά το σχολικό έτος 2022-23)*, December 2023, p. 46, available in Greek at: <https://tinyurl.com/4nr9cy94>.

<sup>1082</sup> UNICEF, *Country Office Annual Report 2023 - Greece*, p. 3, available at: <https://bit.ly/4baeZiL>.

<sup>1083</sup> UNHCR, *Help Greece - Access to Education*, available at: <https://tinyurl.com/yc8rjwrc>.

<sup>1084</sup> *Ibid.*

<sup>1085</sup> L 5038/2023 enters into force the 31 March 2024, except for –among others- paragraph 1c of article 161, which enters into force on 1<sup>st</sup> April 2023 (according to article 179 para 2c). For the application of said provision of article 1c of the Migration Code and the required documents relative is article 1 para Z4 of JMD 30825/2014, as amended by JMD 378422/16.8.2023. In reality, the application of the provision for the 10-year residence permit was not functional at least until the beginning of 2024 due to different obstacles (administrative deficiencies of the online system of MoMA, issuance of explanatory circulars). It remains to be seen how this new provision will be applied in practice.

stateless persons who entered Greece as unaccompanied minors and have successfully completed at least three (3) classes of secondary education in a Greek school in Greece before reaching the age of twenty-three". Only evidence of successful completion -and therefore promotion- to the next class are accepted, and not simple attestations of attendance (Circular no 17314 of 12 January 2024).

The link of the grant of a 10-year residence permit to former UAMs whose asylum application was rejected, with the precondition of having successfully completed at least three years of secondary school before the age of twenty-three is problematic, if compared to the current problematic situation regarding education for asylum seeking children in Greece. In particular, as mentioned above, inadequate staffing, reception classes that start – if at all- months after the beginning of the school year, lack of transportation of children to school and accommodation of children (including UAMs) under harsh living conditions (particularly on the islands), are some of the factors that hinder the harmonious integration of UAMs in school and lead to their early dropout. As long as education in Greece is not improved, in the sense of being more “welcoming” towards asylum-seeking, refugee and migrant children and if current education system deficiencies are not eliminated, the new provision of the Migration Code (article 161 para 1c of L 5038/1.4.2023) for the grant of a 10-year residence permit will not be applicable and will remain void.

#### D. Health care

Indicators: Health Care			
1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Do asylum seekers have adequate access to health care in practice?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Limited	<input type="checkbox"/> No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?	<input type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input checked="" type="checkbox"/> No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No

L 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable social groups<sup>1086</sup> is also applicable for asylum seekers and members of their families.<sup>1087</sup> However, in spite of the favourable legal framework, actual access to health care services has been consistently hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as the public health sector is under extreme pressure and lacks the capacity to cover all the needs for health care services. A 2019 research documents the impact of the ten years of financial crisis and the austerity measures on the Greek public Health System.<sup>1088</sup>

Furthermore, challenges in accessing healthcare due to the lack of interpreters and cultural mediators in public healthcare facilities (hospitals, social clinics, etc.) also persisted in 2023. The language barrier was also flagged as by far the primary obstacle to accessing healthcare by asylum applicants (registered or pending registration) surveyed as part of an ongoing monitoring activity carried out between February 2022-March 2024, under the coordination of UNCHR in Greece, followed by challenges in acquiring necessary documentation (i.e., social security number).<sup>1089</sup>

Article 55 IPA, subsequently replaced by article 59 (2) Asylum Code, introduced a new Foreigner's Temporary Insurance and Health Coverage Number (*Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περιθαλψής Αλλοδαπού*, ΠΑΑΥΠΑ) replacing the ΑΜΚΑ.

<sup>1086</sup> Article 33 L 4368/2016, as amended with article 38 par. 1 of L. 4865/2021.

<sup>1087</sup> Article 59 (2) Asylum Code referring to art. 33 L. 4368/16.

<sup>1088</sup> Amnesty International, *Greece: resuscitation required – the Greek health system after a decade of austerity*, April 2020, available at: <https://bit.ly/3cAKeG0>.

<sup>1089</sup> UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://tinyurl.com/3z6t3y9f>, relevant section on health.

Article 59 (2) provides that PAAYPA is to be issued to asylum seekers together with their asylum seeker's card.<sup>1090</sup> With this number, asylum seekers are entitled free of charge to access the necessary health, pharmaceutical and hospital care, including the necessary psychiatric care where appropriate. The PAAYPA is deactivated if the applicant loses the right to remain on the territory.<sup>1091</sup>

An October 2022 Joint Ministerial Decision (JMD) regarding access of international protection applicants to health care services, medical and pharmaceutical care, social security, the labour market, provides further clarifications on the acquisition of a PAAYPA number.<sup>1092</sup> For every applicant for international protection, a PAAYPA number is issued. This number is unique and corresponds to the number of the applicant's international protection card.<sup>1093</sup> The competent service for the procedure of PAAYPA issuance is the Asylum Service. The latter proceeds with the issuance of the PAAYPA when registering the application for international protection and writes the PAAYPA number on the international protection applicant's card.<sup>1094</sup> PAAYPA holders benefit from primary and secondary health care upon presentation of their international protection applicant card.<sup>1095</sup> The PAAYPA number remains active as long as there is an active international protection applicant's card and is renewed automatically with the renewal of the applicant's card. The validity of PAAYPA is equivalent to the duration of the applicant's card, except for pregnant women, whose number remains valid for one year.<sup>1096</sup> For UAM applicants for international protection, PAAYPA remains active even after the issuance or service of a decision rejecting their asylum application and its validity is extended until the execution of a return decision or until the UAM reaches adulthood.<sup>1097</sup>

Following these developments, and despite initial delays in the operationalisation of the new system, issuance of the PAAYPA seems to have been increasingly streamlined since early 2021,<sup>1098</sup> at least to the extent that GCR is aware. Notwithstanding, challenges do seem to persist as, indicatively, out of 61 registered asylum applicant households surveyed between 1 January 2023 and 31 December 2023 as part of an ongoing monitoring activity carried out under UNHCR in Greece, 5% of respondents still lacked a PAAYPA number.<sup>1099</sup>

Furthermore, as the issuance of PAAYPA requires the full registration of an asylum application, delays in accessing asylum, particularly in mainland Greece, also lead to *de facto* delays with respect to applicants' acquisition of this document and in turn delays in their actual ability to access healthcare. Amidst the marked increase in the number of sea arrivals, similar challenges were also reported on the islands, as for instance in **Kos**, where during November 2023 waiting periods for registration were reported at 2 months, diminished to 35 days by February 2024, resulting in unregistered applicants not having access to healthcare.<sup>1100</sup>

Similarly in **Lesvos**, as noted by MsF in September 2023,<sup>1101</sup> *"[d]elays in the registration process prevents people from accessing medical services in a timely manner and forces patients to seek support outside of the state's coverage. For example, a patient with a chronic heart condition and a history of heart attack, who lost his medication during the journey, had not been registered at the camp for approximately 4 weeks*

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<sup>1090</sup> Article 59 (2) Asylum Code.

<sup>1091</sup> Article 59 (2) Asylum Code.

<sup>1092</sup> Ministerial Decision 605869 (B' 5392/18.10.2022).

<sup>1093</sup> Article 1(3) of Ministerial Decision 605869/2022.

<sup>1094</sup> Article 2(1) of Ministerial Decision 605869/2022.

<sup>1095</sup> Article 3 of Ministerial Decision 605869/2022.

<sup>1096</sup> Article 6(1), (2) of Ministerial Decision 605869/2022.

<sup>1097</sup> Article 6(6) of Ministerial Decision 605869/2022.

<sup>1098</sup> For more, see AIDA, *Country Report Greece: 2022 Update*, June 2023, *op.cit.*, pp. 191-193 and previous relevant reports.

<sup>1099</sup> UNHCR, *Inter-Agency Protection Monitoring for Refugees in Greece: Key findings*, available at: <https://tinyurl.com/3z6t3y9f>, relevant section 2 on documentation. For the data in this paragraph, filters have been used to only include registered asylum applicant households surveyed during 2023 alone.

<sup>1100</sup> As reported in February 2024 by legal aid actors under the newly established Border Legal Aid sub-working group, which covers the islands of Lesvos, Samos and Kos. Information received on 12 March 2024.

<sup>1101</sup> MsF, *Greece: Amid increased arrivals, Médecins Sans Frontières records significant gaps in access to health services for asylum seekers on Lesvos*, 1 September 2023, available in Greek at: <https://tinyurl.com/bdmvxne2>.

and was unable to access needed support, as determined by our medical teams. In addition, urgent appeals from our doctors on behalf of the patient were not given due attention". At the time, MsF reported that 1,000 persons, including vulnerable ones, were still waiting to be registered.

Yet, even for those with an active PAYPA number, the isolated nature of accommodation (*i.e.*, camps in remote areas) in the Greek reception system also hinders applicants effective access to healthcare, including psychosocial support, with the challenge being noted also by the UN High Commissioner for Refugees, Filippo Grandi, during a two-day visit to Greece in early 2024.<sup>1102</sup>

Lastly, applicants' access to healthcare stumbles upon shortages of competent staff in facilities of the Greek reception system and reported challenges since August 2023 with respect to the continuation of the Philos programme, implemented by EODY with AMIF and national funding, which is aimed at covering healthcare and psychosocial care needs for those residing in the reception system.<sup>1103</sup>

For instance, as confirmed by GCR during an early 2024 mission to **Chios**,<sup>1104</sup> since March 2021 the island CCAC has no permanent doctor. Moreover, though during 2023, the doctor of the Leros CCAC was conducting periodic visits to the facility in Chios, this was only for administrative purposes, and namely for the purposes of signing vulnerability assessment documents and medical cards. Shortages in the availability of medication and medical equipment, including for the measurement of diabetes, were also observed.

As per GCR's observations in the field,<sup>1105</sup> the situation was similar in **Kos**, where by December 2023, the island CCAC similarly lacked a permanent doctor and a psychologist. As in the case of Chios, efforts to cover the gap were made via missions of medical personnel from the Leros CCAC, as well as a military doctor.<sup>1106</sup> As per similar observations made by GCR, in December 2023, severe shortages in the medical and psychosocial division of the RIS were also identified in **Lesvos** CCAC, while in **Samos** CCAC, which since its operationalization has lacked a permanent doctor, the situation remained up to the end of 2023, with only one state-appointed doctor being present in the facility for a period of a month, between October and November 2023.<sup>1107</sup>

Between July and November 2023, at least three parliamentary questions were tabled to the competent Ministries regarding the continuation of the Philos programme, and specifically the fate of the programme's more than 400 remaining staff, whose contracts were approaching their August 2023 expiry date.<sup>1108</sup> In its relevant replies, MoMA highlighted that the programme had received an extension up to 15 March 2024, covered via AMIF 2021-2027 funds, after which the programme is scheduled to be replaced by a new programme, called "IPOCRATES - Provision of health services to residents in the accommodation facilities under the responsibility of the Reception and Identification Service".<sup>1109</sup> However, as denounced by the Union of Employees of EODY in October 2024,<sup>1110</sup> the remaining 427 employees of the Philos programme would remain "*indefinitely unpaid*", as, based on a notification they received from the President of the Board of Directors of EODY on 24 October 2023, "*the procedures for the inclusion of the extension of the programme in the 2021-2027 AMIF ha[d] not been concluded, and,*

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<sup>1102</sup> UNHCR, *UN High Commissioner for Refugees wraps up visit to Greece: welcomes progress on integration and urges continued efforts*, 22 February 2024, available at: <https://tinyurl.com/bdepjsbh>.

<sup>1103</sup> EODY, *Integrated Emergency Health Intervention for the Refugee Crisis - Philos Programme*, available in Greek at: <https://bit.ly/3UzeF82>.

<sup>1104</sup> Information received on 26 February 2024.

<sup>1105</sup> GCR maintains a permanent presence on the island.

<sup>1106</sup> Also see, GCR, *Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures*, 14 December 2023, available at: <https://tinyurl.com/mr278p6f>.

<sup>1107</sup> For more on Samos, also see Joint NGO Statement, *Not again in 2024: Call for upholding human rights in the Samos Closed Controlled Access Centre*, 31 January 2024, available at: <https://tinyurl.com/pekpr7rn>.

<sup>1108</sup> Parliamentary questions 107/17.07.2023; 490/30.08.2023 and 1491/01.11.2023.

<sup>1109</sup> Relevant parliamentary replies by the MoMA of 15 September 2023 (protocol numbers: 422602 and 422540), respectively available in Greek at: <https://bit.ly/3Weqfjk> and <https://bit.ly/4dakO1F>, and of 11 December 2023 (protocol number: 537032) available in Greek at: <https://bit.ly/3Jzt6Cz>.

<sup>1110</sup> Naftemporiki, *Employees of EODY: 427 will remain indefinitely unpaid because the Ministry of Migration does not tend to their salaries*", 24 October 2023, available in Greek at: <https://tinyurl.com/bdhwjkr>.

therefore, the institution [could] not receive appropriations for the payment of their September salary”. The delay in the programme’s extension was also reported in a November 2023 announcement made by EODY, which also noted that “persistent efforts were successful so that the previous month’s salary of the Philos Programme staff would be paid on 9 November”.<sup>1111</sup> Nevertheless, the very existence of such gaps with respect to a critical programme aimed at covering health and psychosocial needs for residents of the camps, should be seen as cause of concern in itself.

## E. Special reception needs for vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
 Yes       In some cases       No

The law provides that, when applying the provisions on reception conditions, the competent authorities shall take into account the specific situation of vulnerable persons such as minors, unaccompanied or not, direct relatives of victims of shipwrecks (parents and siblings), disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses, persons with a cognitive or mental disability and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, victims of female genital mutilation and victims of human trafficking.<sup>1112</sup> Since the entry into force of the IPA on 1 January 2020 and subsequent law 4939/2022 which replaced articles 1-112 and 114 of the IPA, the assessment of the vulnerability of persons entering irregularly into the territory takes place within the framework of the Reception and Identification Procedure and is no longer connected to the assessment of the asylum application.<sup>1113</sup>

Under the reception and identification procedure, upon arrival, the Head of the RIC or of the Closed Control Centre ‘shall refer persons belonging to vulnerable groups to the competent social support and protection institution.’<sup>1114</sup>

However, shortcomings in the identification of vulnerabilities, together with a critical lack of suitable reception places for vulnerable applicants on the islands (see [Types of Accommodation](#)) prevents vulnerable persons from enjoying special reception conditions. A report published by MSF highlights alarming levels of mental health problems among asylum applicants on the Greek islands, including self-harming and suicidal acts among children. According to MSF, the indefinite detention, sense of limbo and systematic violence further traumatised people seeking protection<sup>1115</sup> Also, according to an MSF announcement on the provision of health care on Lesbos island, there are still significant gaps in asylum seekers’ access to health services due to delays in the registration process, with the example of “a patient with a chronic heart problem and a history of heart attack, who lost his medication during the trip, (and who) was not registered at the camp for about 4 weeks and did not have access to the necessary support [...]”.<sup>1116</sup>

Moreover, in a recent joint statement of twenty civil society organisations on the living conditions and vulnerability assessment in Samos CCAC: “Any person who resides in the CCAC and especially those who are de facto detained, have insufficient and inconsistent access to medical care. Additionally, due to the absence of healthcare and individual vulnerability assessments, asylum seekers with communicable

<sup>1111</sup> EODY, *Information on the KOMY and PHILOS programmes and their staff*, 2 November 2023, available (Greek) at: <https://tinyurl.com/22t8azkt>.

<sup>1112</sup> Article 62 (1) Asylum Code in combination with article 1λγ’ of the same law.

<sup>1113</sup> Article 62 (2) Asylum Code, citing Article 41 of the same law.

<sup>1114</sup> Article 40 Asylum Code.

<sup>1115</sup> MSF, *Constructing Crisis at Europe’s Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: <https://bit.ly/3WfEpY5>.

<sup>1116</sup> MSF, *Ελλάδα: Εν μέσω αυξημένων αφίξεων, οι Γιατροί Χωρίς Σύνορα καταγράφουν σημαντικά κενά στην πρόσβαση των αιτούντων άσυλο σε υπηρεσίες υγείας στη Λέσβο*, 1 September 2023, available in Greek at: <https://tinyurl.com/44hwvunn>.

diseases risk remain undetected or unable to seek medical treatment for several weeks after arrival which causes a serious risk of contagion".<sup>1117</sup>

Testimonies of asylum seekers accommodated in Samos CCAC – gathered in a report of I Have Rights NGO<sup>1118</sup> highlight the inhuman living conditions in the structure:

*"Our container is not locked, it is not safe. I don't feel safe in this environment. They can always enter the containers when they want. no privacy. Of course it's bad, especially we ladies need privacy. of course it stresses you, but there is nowhere you can go and complain".*<sup>1119</sup>

*"Sometimes I use some sleeping tablets. MSF [Médecins Sans Frontières] gave them to me and I use them, but otherwise I cannot sleep because of the camp stress. If there was no MSF in the camp for us, some people would die there. Because the camp doctor makes no effort. You tell them you are feeling bad, they simply tell you to go out. The workers in the camp are very, very wicked. Sometimes I feel like harming myself because of the stress of being in the camp".*<sup>1120</sup>

The ESTIA scheme on Samos, which had offered safe apartments to vulnerable applicants in the past, including victims of sexual and gender-based violence, was discontinued. Due to a lack of alternative accommodation, even sexually abused persons stayed in tents in a separate section of Vathy camp, where the alleged perpetrators also stayed. On Lesbos, following the closure of the Kara Tepe site, a model facility offering dignified accommodation in prefabricated containers, vulnerable persons were transferred to tents in Mavrovouni camp. Owing to the reduced numbers of alternatives to camps on both islands, there are significant difficulties in finding dignified accommodation even for persons with serious health issues, as reported by MSF.<sup>1121</sup> In Chios CCAC (Vial camp), no separate accommodation is foreseen for vulnerable persons, and rub halls with single room and no beds (only mattresses on the floor) are used for the accommodation of monoparental families, together with single men and nuclear families.<sup>1122</sup>

In its judgement in the case of *A.D. v. Greece* (Application no. 55363/19), published on 4 April 2023, the ECtHR "for the first time condemned the living conditions of a pregnant woman in Samos hotspot as unanimously found that Greece had violated article 3 of the ECHR by forcing the applicant to live in unbearable conditions".<sup>1123</sup> The case was supported by Refugee Law Clinic Berlin (Germany), I Have Rights (Samos) and PRO ASYL.

## Reception of unaccompanied children

Following the establishment of the Special Secretary for the Protection of Unaccompanied Minors (SSPUM) under the MoMA in February 2020,<sup>1124</sup> the SSPUM has become the competent authority for the

<sup>1117</sup> Joint Statement of 20 civil society organisations, *NOT AGAIN IN 2024 – Call for upholding human rights in the Samos Closed Controlled Access Centre*, 31 January 2024, p. 1-4, available at: <https://tinyurl.com/3dxhybnk>; for more information regarding health and vulnerabilities witnessed on Samos and Lesbos arrivals see: MSF, *In plain sight – The Human Cost of Migration Policies and Violent Practices at Greek Sea Borders*, 2 November 2023, pp. 12-13, available at: <https://tinyurl.com/m63dcr7d>.

<sup>1118</sup> I Have Rights, *They are killing minds – Life in the Samos Closed Controlled Access Centre*, 20 June 2023, available at: <https://tinyurl.com/565hmbzb>.

<sup>1119</sup> *Ibid.*, p. 5.

<sup>1120</sup> *Ibid.*, p. 10.

<sup>1121</sup> MSF, *Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: <https://bit.ly/3tVzwFg>; FRA, *Migration: Key fundamental rights concerns - Bulletin 2 – 2021*, September 2021, available at: <https://bit.ly/3LopAcY>.

<sup>1122</sup> Information shared by Chios UNCHR Field Office during GCR mission (January 2024).

<sup>1123</sup> I have Rights, Press Release, *Young mother successfully sues the Greek Government for the treatment she suffered as a pregnant woman in the 'hotspot' on Samos*, available at: <https://bit.ly/3Wdfpkc>; see also judgements of the ECtHR published on 23 November 2023 on cases *M.L. v. Greece* (Application no 8386/20) and *M.B. v. Greece* (Application no 8389/20) where the Court found again a violation of article 3 of the ECHR on account of the conditions in the Samos hotspot, which amounted to inhumane and degrading treatment. These cases were also supported by Refugee Law Clinic Berlin (Germany), I Have Rights (Samos) and PRO ASYL Foundation: I Have Rights, Press Release, *The European Court of Human Rights again condemns the living conditions of asylum seekers on Samos*, 11 January 2024, available at: <https://tinyurl.com/s8ce44mk>.

<sup>1124</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.



protection of UAM, including for their accommodation. In June 2023, the SSPUM was abolished and its responsibilities (under article 39 of P.D. 106/2020) were transferred to the new General Secretariat for Vulnerable Persons and Institutional Protection (GSVP) established with article 6(1) of P.D. 77/2023 (A' 130/ 27.6.2023) and falling under the competency of the Deputy Minister of Migration and Asylum.<sup>1125</sup> The newly established General Secretariat is also competent for the National Referral Mechanism, according to article 66/Α of L. 4939/2022 added with article 39 of L. 4960/2022.

**Ongoing progress regarding the reception capacity for unaccompanied children:** As of 1 January 2024, there were at least 2,000 unaccompanied and separated children in Greece and a total of 2,060 dedicated accommodation places in shelters and Semi-Independent Living (SILs) facilities, plus 200 places in urgent accommodation facilities.<sup>1126</sup> The latter are located in a total of 5 Emergency Accommodation Structures operating under the responsibility of the International Organisation of Migration (IOM), all of them located in the mainland (3 in Attika region and 2 in Central Macedonia).<sup>1127</sup>

Moreover, from the beginning of 2022 until 31 October 2023, the National Emergency Response Mechanism launched in April 2021 with the aim to trace UAM in precarious conditions and provide them with access to necessary protection, managed to identify and accommodate 3,173 children who were living in precarious conditions, or were homeless.<sup>1128</sup> Since 2 March 2022, the National Emergency Response Mechanism received 577 referrals for separated and unaccompanied children from Ukraine.<sup>1129</sup>

The emergency accommodation facilities were funded -from December 2021 until February 2023- through a grant from the Danish Ministry of Foreign Affairs. From March 2023, they are funded by the Swiss Government and the Ministry of Migration and Asylum within the framework of the Swiss-Greek Cooperation Programme<sup>1130</sup>.

The National Emergency Response Mechanism is operated by the General Secretary for Vulnerable Persons & Institutional Protection (former Special Secretary for the Protection of Unaccompanied Minors – SSPUM) and supported by UNHCR (expert support), EUAA, IOM and the European Commission Its operation on the ground is carried out through NGOs Arsis, METAdrasi and the Network for Children's Rights.<sup>1131</sup> The Mechanism also includes a 24/7 telephone hotline for identifying and tracing children in need, which is available in six languages. The hotline provides guidance to children, citizens, local and public authorities on steps and actions to be taken from the point of identification of an unaccompanied child until his/her timely inclusion in emergency accommodation.<sup>1132</sup> Since the end of March 2022, a procedure for the proper registration and protection of unaccompanied and separated children from Ukraine arriving in Greece has also been established by NERM.<sup>1133</sup>

The total number of referrals of unaccompanied children received by the SGVP in 2023 were reported at 5,043, according to the sum of respective monthly statistics, marking a 21% decrease compared to the

<sup>1125</sup> MoMA, *General Secretariat for Vulnerable Persons & Institutional Protection*, available at: <https://tinyurl.com/2u63bw7y>.

<sup>1126</sup> MoMA / General Secretariat for Vulnerable Persons & Institutional Protection, *Situation Update: Unaccompanied Children (UAC) in Greece*, 1 January 2024, p. 1, available in Greek at: <https://tinyurl.com/yksp4rzu>.

<sup>1127</sup> *Ibid.*, p. 2.

<sup>1128</sup> IOM, *Newsletter IOM Greece*, November-December 2023, p. 1, available at: <https://tinyurl.com/3ep73ks2>.

<sup>1129</sup> MoMA / General Secretariat for Vulnerable Persons & Institutional Protection, *Situation Update: Unaccompanied Children (UAC) in Greece (in greek)*, *op. cit.*, p. 1.

<sup>1130</sup> IOM, *Newsletter IOM Greece*, *op. cit.*

<sup>1131</sup> Interreg Europe, *National Emergency Response Mechanism (NERM) in Greece*, 16 November 2023, available at: <https://tinyurl.com/2ryp53cs>; see also, European Crime Prevention Network (EUCPN), *National Emergency Response Mechanism*, available at: <https://tinyurl.com/mvv8ntvp>.

<sup>1132</sup> *General Secretariat for Vulnerable Persons & Institutional Protection*, available at: <https://tinyurl.com/2u63bw7y>; see also, UNHCR, *Greece launches national tracing and protection mechanism for unaccompanied children in precarious conditions*, 6 April 2021, available at: <https://bit.ly/3uBRICl>.

<sup>1133</sup> Interreg Europe, *op. cit.*; see also, MoMA / SSPUAM, *National Emergency Response Mechanism - A safety net for unaccompanied children identified in precarious living conditions*, November 2022, p. 10, available at: <https://tinyurl.com/2msh79hc>.

same period in 2022 (6,350).<sup>1134</sup> At the same time, the number of accommodation spaces, specifically designated for unaccompanied minors was also slightly reduced, reaching a total of 2,203 places by the end 2023,<sup>1135</sup> as opposed to 2,511 by the end of 2022.<sup>1136</sup> Of these, almost 93% (2,048) were long-term accommodation (including SILs), while the rest (155) were temporary/emergency accommodation under the relevant mechanism established by the MoMA in April 2021.<sup>1137</sup> Based on updates by EKKA, by the year's end, the majority of referrals were for UAMs from Somalia, Afghanistan, Syria and Egypt.<sup>1138</sup>

In December 2022, the average waiting period for the placement of unaccompanied minors residing in island RICs to suitable accommodation places for UAMs was 13.77 days, marking almost a seven-day increase compared to 2021 (7.4 days). The relevant period for UAM in "protective custody" or in the RIC of **Fylakio**, Evros, was 6.5 days, marking a two-day increase compared to 2021 (4.7 days), albeit the average time of placement for UAM specifically in "protective custody" was 2.5 days. Lastly, the average time for the placement of UAM in a shelter was 6.5 days, similarly marking a slightly more than a two-day increase, compared to 2021 (4.1 days).<sup>1139</sup> In all cases, despite the increases in average placement times, which could potentially be attributed to the increase in UAM referrals throughout 2022 (34.4%), the SSPUM's data seem to re-affirm improvements in this field if compared to previous years, which should continue to ensure that all UAM have timely access to suitable reception.

Of the total UAM referred, 4,450 were boys, in most cases older than 15 (3,820), while 601 were girls, in most cases similarly older than 15 (462).<sup>1140</sup>

Nevertheless, challenges remained regarding the proper identification of UAM upon arrival, and consequently, cases where UAM have been accommodated alongside the adult population continued to be observed in 2023, at least on the islands, amongst others due to the lack of specialised medical staff.<sup>1141</sup> For the situation of UAMs see also the chapter on [Guarantees for Vulnerable Groups](#).

The lack of appropriate care, including accommodation for unaccompanied children, in Greece has been repeatedly raised by human rights bodies.<sup>1142</sup> In 2019, in the context of his visit to the Lesvos, the UN High Commissioner for Refugees stated he was '*very worried about children, especially children travelling alone...[who] are the most exposed to violence and exploitation*',<sup>1143</sup> while Human Rights Watch inter alia noted that "*the lack of prompt transfers [from the islands] put vulnerable people, including people with invisible disabilities and children, at higher risk of abuse and violation of their rights*".<sup>1144</sup>

On 9 June 2022 the UN Child Rights Committee (CRC) issued its Concluding Observations on Greece, reviewed during its 90th session. The Committee raised serious concerns, among others, regarding the detention of children for identification purposes, inappropriate age determination procedures, the

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<sup>1134</sup> MoMA / General Secretariat for Vulnerable Persons & Institutional Protection, *Situation Update: Unaccompanied Children (UAC) in Greece*, op.cit. p. 3.

<sup>1135</sup> For 2023 data see *ibid.*, p. 1; data for 2022 was made available via a written reply by the SSPUM to GCR request for statistics on 16 February 2023.

<sup>1136</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVkJf>, p. 194.

<sup>1137</sup> Data provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

<sup>1138</sup> MoMA / General Secretariat for Vulnerable Persons & Institutional Protection, *Situation Update: Unaccompanied Children (UAC) in Greece*, op. cit., p. 1.

<sup>1139</sup> Written reply by the SSPUM to GCR request for statistics on 16 February 2023. See also, AIDA, *Country Report: Greece, 2021 Update*, op. cit., p. 194.

<sup>1140</sup> Written reply by the General Secretariat for Vulnerable Persons & Institutional Protection to GCR's request for statistics on 6 March 2024.

<sup>1141</sup> GCR & Oxfam, *Lesbos Bulletin: Update on Lesbos and the Aegean Islands, by the Greek Council for Refugees & Oxfam*, March 2022, available at: <https://bit.ly/3YEXp0H>, p. 5.

<sup>1142</sup> -See, e.g., UNHCR, *Lone children face insecurity on the Greek islands*, 14 October 2019, available at: <https://bit.ly/36XQ6pf>.

<sup>1143</sup> Euronews, *U.N. refugees chief urges Greece to improve 'miserable' camp conditions*, 27 November 2019, available at: <https://bit.ly/2vWsjt3>.

<sup>1144</sup> HRW, *Human Rights Watch Submission to the United Nations Committee against Torture on Greece*, p. 4 July 2019, available at: <https://bit.ly/2S5ewch>.

precarious living conditions in the RICs on the Aegean islands and the lack of access to food and healthcare.<sup>1145</sup>

In November 2018, ECRE and ICJ, with the support of GCR lodged a collective complaint before the European Committee for Social Rights of the Council of Europe with regards the situation of *inter alia* unaccompanied children in Greece.<sup>1146</sup> In response to the complaint, in May 2019, the Committee on Social Rights exceptionally decided to indicate immediate measures to Greece to protect the rights of migrant children and to prevent serious and irreparable injury or harm to the children concerned, including damage to their physical and mental health, and to their safety, by *inter alia* removing them from detention and from Reception and Identification Centres (RICs) at the borders.<sup>1147</sup>

Furthermore, in December 2019, in a case represented by GCR, in cooperation with ASGI, Still I Rise and Doctors Without Borders, the ECtHR, under Rule 39 of the Rules of Court, granted interim measures to five unaccompanied asylum-seeking teenagers who had been living for many months in the Reception and Identification Centre (RIC) and in the "jungle" of Samos. The interim measures ordered the Greek authorities to arrange for their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions were compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.<sup>1148</sup>

Moreover, in the recent case of *T.K. v. Greece* (Application no. 16112/20) of 18 January 2024 represented by Refugee Law Clinic Berlin (Germany) and supported by I Have Rights (Samos), the ECtHR held that there has been a violation of articles 3 and 8 of the ECHR in the case of an unaccompanied child on Samos, whose wrong registration as an adult and the failure to correct his age violated his right to respect for private and family life (article 8 ECHR). Moreover, according to the Court, the living conditions of the applicant amounted to inhumane and degrading treatment, in violation of article 3 of the ECHR.<sup>1149</sup>

In March 2020, a number of EU Member States accepted to relocate about 1,600 unaccompanied children from Greece.<sup>1150</sup> Despite the fact that the number of children to be relocated remains significantly low, compared to the number of unaccompanied children present in Greece (3,776 children as of 15 April 2021<sup>1151</sup>), this is a welcome initiative and tangible display of responsibility sharing that facilitates UAM's access to durable solutions.

The first relocation under the scheme took place on 15 April 2020, with the first 12 UAM being relocated from Greece to Luxemburg, after previously having stayed for months in the overcrowded, unsuitable and unsafe RICs of Lesbos, Samos, and Chios. As noted by the Regional Director of IOM at the time '[t]he importance of this crucial initiative is amplified now due to the challenges we are all facing from COVID-19. Relocation of vulnerable children especially at a time of heightened hardship, sends a strong message of European solidarity and we hope to see this expand soon'.<sup>1152</sup>

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<sup>1145</sup> UN Committee on the Rights of the Child, *Concluding observations on the combined fourth to sixth reports of Greece*, 28 June 2022, available at: <https://bit.ly/3xTHfYR>, and UN Human Rights Office of the High Commissioner, Press release *UN Child Rights Committee issues findings on Cambodia, Canada, Chile, Croatia, Cuba, Cyprus, Djibouti, Greece, Iceland, Kiribati, Somalia and Zambia*, 9 June 2022, available at: <http://bit.ly/3OaDu42>.

<sup>1146</sup> Council of Europe, *New complaint registered concerning Greece*, 21 December 2018, available at: <https://bit.ly/2SG0FpF>.

<sup>1147</sup> European Committee of Social Rights, *Decision on admissibility and on immediate measures in the case International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, 23 May 2019, available at: <https://bit.ly/39clrGj>.

<sup>1148</sup> GCR, *The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the 'jungle' of Samos island*, 30 December 2019, available at: <https://bit.ly/2GYQY2p>.

<sup>1149</sup> I Have Rights, *European Court of Human Rights Condemns Greece's Treatment of an Unaccompanied Child on Samos*, 18 January 2024, available at: <https://bit.ly/44dJNNg>.

<sup>1150</sup> EU Commissioner for Home Affairs, *Intervention (via video conference) in European Parliament LIBE Committee on the situation at the Union's external borders in Greece*, 2 April 2020, available at: <https://tinyurl.com/mwctyp4h>.

<sup>1151</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 April 2021, available at: <https://bit.ly/3vpPEMR>.

<sup>1152</sup> IOM, UNHCR & UNICEF, *UN agencies welcome first relocation of unaccompanied children from Greece*, 15 April 2020, available at: <https://bit.ly/2Pv0BNY>.

From April 2020 until December 2022, a total of 1,313 UAM had been relocated to other EU member states, most of them to Germany, France, Portugal and Finland.<sup>1153</sup> During 2022, a total of 113 UAMs were transferred on 13 flights to France and Portugal, while three flights to Portugal, with a total of 28 UAMs took place in December 2022.<sup>1154</sup> The relocation scheme has been extended in an attempt to meet the total number of pledges made by Member States.<sup>1155</sup> By 30 March 2023, a total of 1,368 out of the 1,600 relocation pledges for UAM had been successfully implemented, primarily to France (501), Portugal (380), Germany (204) and Finland (111).<sup>1156</sup>

### **Types of accommodation for unaccompanied children**

As per data provided by the General Secretariat for Vulnerable Persons & Institutional Protection operating under the MoMA,<sup>1157</sup> out of the 2,203 total available places for unaccompanied children in Greece by the end of 2023, 1,808 were in 63 shelters, 240 were in 60 Supported Independent Living apartments (SILs) for UAM over the age of 16, and 155 places were in 4 emergency accommodation facilities operating under the National Emergency Response Mechanism (NERM).

As per the same data, during the same time (31.12.2023), out of the total 2,000 UAM estimated to be in Greece on 1 January 2024, 1,462 resided in shelters, 174 in SILs, 128 in emergency accommodation under the NERM, and 236 in (mainland) RICs and (island) CCACs, highlighting an ongoing divergence between the available, dedicated places for UAM and those actually in use.

**Shelters for unaccompanied children:** long-term accommodation facilities for unaccompanied children (shelters) are managed primarily by civil society entities and charities.

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<sup>1153</sup> Special Secretary for the Protection of Unaccompanied Minors (SSPUM), *Action Report 2022*, available in Greek at: <https://bit.ly/3IKZmCB>, and MoMA, *Press Release «Συνεχίζεται το Πρόγραμμα Εθελοντικής Μετεγκατάστασης – 1.313 ασυνόδευτα παιδιά έχουν μεταφερθεί σε άλλες χώρες κράτη-μέλη της ΕΕ»*, 20 December 2022, available in Greek at: <https://bit.ly/3ILcbgn>.

<sup>1154</sup> MoMA, *Press Release «Συνεχίζεται το Πρόγραμμα Εθελοντικής Μετεγκατάστασης – 1.313 ασυνόδευτα παιδιά έχουν μεταφερθεί σε άλλες χώρες κράτη-μέλη της ΕΕ»*, 20 December 2022, available in Greek at: <https://bit.ly/3ILcbgn>.

<sup>1155</sup> GCR & SCI, *Children on the move, Bimonthly update*, November-December 2021, available at: <https://tinyurl.com/4sxevu3t>.

<sup>1156</sup> IOM, *Voluntary Scheme For The Relocation from Greece to Other European Countries* (infographic), 30 March 2023, available at: <https://tinyurl.com/46rwcqzu>.

<sup>1157</sup> Data provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

Shelters as of 31 December 2023			
Implementing Actor	No. of facilities	Total Capacity	Type of Accommodation
HOME PROJECT	9	149	Long-term
TEEN SPIRIT	2	50	Long-term
APOSTOLI	1	20	Long-term
ARSIS	8	220	Long-term
EES	2	70	Long-term
ILIAKTIDA	6	173	Long-term
INEDIVIM	1	25	Long-term
METADRASI	2	33	Long-term
PHAROS ELPIDAS	2	63	Long-term
SMAN	2	33	Long-term
MEDIN	1	40	Long-term
ICSD	3	120	Long-term
ZEUXIS	2	53	Long-term
IOM	5	134	Long-term
EUROPEAN EXPRESSION	2	80	Long-term
PENTALOFOS	1	40	Long-term
SOCIAL EKAB	6	208	Long-term
KEAN	2	66	Long-term
SYNYPARXIS	5	191	Long-term
AGIOS ATHANASIOS	1	40	Long-term

Source: Information provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

**Supported Independent Living (SIL):** “Supported Independent Living for unaccompanied minors” is an alternative housing arrangement for unaccompanied children aged 16 to 18 launched in 2018. The programme includes housing and a series of services (education, health etc.) and aims to enable the smooth coming of age and integration to Greek society.<sup>1158</sup>

SILs as of 31 December 2023		
Implementing Actor	Capacity (each)	Capacity (total)
METADRASI	4	28
IRC	4	12
ARSIS	4	20
PRAKSIS	4	20
KEAN	4	12
ILIAKTIDA	4	20
EUROPEN EXPRESSION	4	32
ICSD	4	40
NOSTOS	4	56

Source: Information provided by General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

<sup>1158</sup> Metadrasi, *Supported Independent Living for unaccompanied minors*, available at: <https://bit.ly/2tPElJv>.

Emergency Accommodation Facilities are temporary accommodation places, for unaccompanied children who are traced living homeless or in precarious living conditions, operating under the National Emergency Response Mechanism (NERM) and run by IOM. The Emergency Accommodation Facilities provide an immediate assessment of the best interest of UAMs and a comprehensive protection, including the provision of psychosocial, legal and medical support and the referral to long-term accommodation shelters<sup>1159</sup>.

Implementing Actor	Capacity
IOM	45
IOM	22
IOM	43
IOM	45

Source: Information provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

According to the data provided by the General Secretariat for Vulnerable Persons & Institutional Protection regarding the period 1.1.2023-31.12.2023, the average waiting time for the placement of UAMs to a shelter was 4.5 days and 0.7 days for the UAMs living in precarious conditions. Furthermore, for UAMs living in conditions of restriction of freedom in protective custody or in CCACs, the average waiting time for their placement in a shelter was 0.4 and 7.7 days respectively<sup>1160</sup>.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to Article 47 (1) Asylum Code, the competent authorities shall inform the applicant, within 15 days after the lodging of the application for international protection, of his or her rights and the obligations with which he or she must comply relating to reception conditions, by providing an informative leaflet in a language that the applicant understands. This material must provide information on the existing reception conditions, including health care, as well as on the organisations that provide assistance to asylum seekers.<sup>1161</sup> If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter.<sup>1162</sup>

A number of actors are providing information to newly-arrived persons on the islands and the mainland. However, as also mentioned in Provision of Information on the Procedure, access to comprehensive information remains a matter of concern, especially in the context of asylum, due to the expanded set of obligations and penalties that can be imposed on applicants pursuant to the Asylum Code.

In any event, information on reception should take into account the actual available reception capacity, the availability and accessibility of referral pathways to reception facilities and other services and the legal obligations imposed on the applicants, *i.e.*, restrictions on movement imposed in the context of the rules governing the CCACs and broader reception facilities, and the obligation to remain on a given island for those subject to EU-Türkiye statement.

<sup>1159</sup> MoMA / Special Secretariat for the Protection of UAMs, *National Emergency Response Mechanism. A safety net for unaccompanied children identified in precarious living conditions*, November 2022, available at: <https://tinyurl.com/2msh79hc>.

<sup>1160</sup> Data provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

<sup>1161</sup> Article 47 (2) Asylum Code.

<sup>1162</sup> Article 47 (3) Asylum Code.

## 2. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes       With limitations       No

According to Article 60 (2)(b) of the Asylum Code, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisors, representatives of UNHCR and other certified organisations. These shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.

With the exception of NGOs that are operational within a site and enrolled in the registry of NGOs of the MoMA, access to temporary accommodation Centres, Reception and Identification Centres and the new Closed-Controlled Centres is subject to prior official authorization at the central level, while the Director of each facility may define more specific terms and conditions for each relevant visit (e.g., time of visit).

## G. Differential treatment of specific nationalities in reception

and asylum seekers and refugees from all other countries; a welcoming policy that created a two-tiered reception system. Immediate access to the labour market and medical care, accommodation and food support; launch of an online pre-registration platform were all completed by the end of March 2022. For all other refugees and asylum seekers and also for Ukrainians who were in Greece before 26 November 2022 the situation has not ameliorated: difficulties in accessing the asylum procedure, problematic reception procedure and provisions of material conditions, and pushback practices remain.<sup>1163</sup> This distinction continued to apply in 2023.

<sup>1163</sup> For the two-tier refugee response, see among others: GCR / OXFAM / Save the Children International, *Greece: A two-tier refugee system*, Bi-monthly bulletin, May 2022, available at: <https://bit.ly/3OJOetv>. GCR/ OXFAM / Save the Children International, *Greece: Bimonthly bulletin on Refugees and Migrants*, July 2022, available at: <https://bit.ly/3qhFfWx>, pp. 12-14.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention<sup>1164</sup>

1. Total number of asylum seekers detained in pre-removal centres in 2023:	7,866
2. Number of asylum seekers in administrative detention at the end of 2023:	1,003 <sup>1165</sup>
3. Number of pre-removal detention centres:	8 <sup>1166</sup>
4. Total capacity of pre-removal detention centres:	3,676

Law 4939/2022 (Asylum Code), in force since 10 June 2022, foresees extensive provisions on the detention of asylum seekers and significantly less guarantees during the imposition of detention measures against asylum applicants, following previous legislative amendments.<sup>1167</sup> In practice, the legal framework threatens to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort. In particular, the Asylum Code foresees:

- ❖ The possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of an extensive list of grounds justifying detention.<sup>1168</sup> Art. 50(2) Asylum Code provides that an asylum seeker who has already applied for asylum while free may still be detained:
  - (a) in order to determine or verify his or her identity or nationality or origin;
  - (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
  - (c) when there is a risk of national security or public order;
  - (d) when there is a significant risk of absconding within the meaning of Art. 2(n) of Regulation (EU) 604/2013 and in order to ensure the implementation of the transfer procedure in accordance with the Dublin Regulation;
  - (e) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
- ❖ Extensive maximum time limits for the detention of asylum seekers. According to Article 50 (5) Asylum Code, the detention of an asylum seeker can be imposed for an initial period of up to 50 days and may be successively prolonged up to a maximum of 18 months. Furthermore, according to Article 46(5), the detention period in view of removal (return/deportation, etc.) is not considered when calculating the total time, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while in the asylum procedure + 18 months in view of removal). The possibility to extend the period of detention of asylum seekers up to 18 months raises serious concerns about its compliance with the obligation to impose asylum detention “only for as short a period as possible” and to complete asylum procedures with “due diligence” in accordance with Article 9 the Reception Conditions Directive (2013/33/EU).
- ❖ The abolition of the safeguard to impose the detention of an asylum seeker only upon a prior recommendation of the Asylum Service. The IPA provided that the detention of an asylum seeker could only be imposed following prior relevant recommendation by the Asylum Service, with the exception of cases that detention was ordered on public order grounds, which could be ordered directly by the Police Director. Article 50(4) of the Asylum Code abolished the requirement for a

<sup>1164</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1165</sup> Total number of asylum seekers under administrative detention in pre-removal detection centers and in other detention facilities such as police stations.

<sup>1166</sup> The operation of one of eight the PRDCs (Lesvos) was suspended during 2020, 2021, 2022 and 2023.

<sup>1167</sup> UNHCR, *UNHCR urges Greece to Strengthen Safeguards in Draft Asylum Law*, 24 October 2019, available at: <https://bit.ly/2IzauTV>.

<sup>1168</sup> Article 50(2) Asylum Code.



recommendation issued by the Asylum Service and provides that the detention of an asylum seeker on any ground may be imposed directly by the police upon prior notification by the Asylum Service. As the Asylum Service is the only authority that may assess the need for detention based on the specific elements of the application and substantiate the grounds for detention as required by law, this amendment raises concerns *inter alia* on the respect of the obligation for an individual assessment and the principle of proportionality before the detention of an asylum applicant.

For further amendments previously introduced to the legal framework of detention, see AIDA report on Greece 2021.<sup>1169</sup>

During 2023, despite the fact that no readmission to Türkiye has been implemented for more than three years,<sup>1170</sup> and for the time being no reasonable prospect of readmission to Türkiye exists, third-country nationals, including asylum seekers whose applications have been rejected as inadmissible on the basis of the safe third country concept, remained detained for prolonged periods.<sup>1171</sup>

### Statistics on detention<sup>1172</sup>

In 2023, a total number of 20,540 detention orders have been issued following a removal decision (return/deportation decision).

A total number of 2,325 third-country nationals remained in administrative detention at the end of 2023. Out of those 2,064 were detained in pre-removal detention centres (PRDCs) and 261 third-country nationals were detained in police stations or other police facilities countrywide.

Out of the total 2,064 persons detained in PRDCs at the end of 2023, 1,003 persons (48.59%) were asylum seekers. Moreover, on 31 December 2023, 33% of persons detained in PRDCs, had been in detention for a period exceeding six (6) months.

A number of 504 unaccompanied children have been detained in PRDCs during 2023, prior to their placement in a shelter for UAMs. As per data provided by the SG for Vulnerable Persons & Institutional Protection, average waiting times for the placement of UAM living in conditions of restriction of freedom (protective custody) in a shelter stood at 0.4 days<sup>1173</sup>.

Administrative detention: 2018-2023						
	2018	2019	2020	2021	2022	2023
Number of asylum seekers detained In PRDCs	18,204	23,348	10,130	6,447	11,857	7,866
Total number of persons detained in PRDCs	31,126	30,007	14,993	12,020	18,966	19,003

Source: Directorate of the Hellenic Police, 23 January 2019; 8 February 2020, 11 February 2021, 8 March 2022, 2 February 2023, 18 January 2024.

<sup>1169</sup> AIDA, *Country Report: Greece, 2021 update*, May 2022, available at: <https://bit.ly/3MRVkJf>.

<sup>1170</sup> MoMA, *Removals within the framework of the EU-Türkiye Statement have not been implemented since March 2020*, July 2021, available in Greek at: <https://bit.ly/3lvS76h>, p. 11.

<sup>1171</sup> Based on Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1172</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1173</sup> Data provided by the General Secretariat for Vulnerable Persons & Institutional Protection on 6 March 2024.

The breakdown of detained asylum seekers and the total population of detainees per pre-removal centre is as follows:

Breakdown of asylum seekers detained by pre-removal centre in 2023				
Centres	Detention throughout 2023		Detention at the end of 2023	
	Total population		Asylum seekers	Total population
Amygdaleza	7,182		325	799
Tavros (Petrou Ralli)	1,427		32	122
Corinth	2,277		426	654
Paranesti, Drama	747		141	286
Xanthi	815		73	170
Fylakio, Orestiada	6,432		1	11
Lesvos	0		0	0
Kos	123		5	22
<b>Total</b>	<b>19,003</b>		<b>1,003</b>	<b>2,064</b>

Source: Directorate of the Hellenic Police 18 January 2024.

The breakdown of unaccompanied children under administrative detention per pre-removal centre is as follows:

Breakdown of unaccompanied minors under detention by pre-removal centre in 2023		
Centre	Detentions throughout 2023	In detention at the end of 2023
Amygdaleza	80	14
Tavros (Petrou Ralli)	0	0
Corinth	4	0
Paranesti, Drama	8	6
Xanthi	1	1
Fylakio, Orestiada	414	4
Lesvos	0	0
Kos	1	0
<b>Total</b>	<b>508</b>	<b>14</b>

Source: Directorate of the Hellenic Police 18 January 2024.

**Number of pre-removal detention centres (PRDCs):** There were seven active pre-removal detention centres in Greece at the end of 2023. This includes five centres on the mainland (**Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Fylakio**) and one on the islands (**Kos**). The total pre-removal detention capacity is 3,676 places.<sup>1174</sup> In addition to the above, police stations and other holding facilities are also used for prolonged migration detention, despite the fact that as the ECtHR has found, these facilities are not in line with the guarantees required under Article 3 ECHR, notably given “*the nature of police stations per se, which are places designed to accommodate people for a short time only*”.<sup>1175</sup>

**Number of forced returns:** Although the number of persons detained during the past few years remains high, this has not been mirrored by a corresponding increase in the number of forced returns. With a total number of 20,540 detention orders following a removal decision issued in 2023, the total number of forced

<sup>1174</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1175</sup> ECtHR, *H.A. and Others v. Greece*, application no. 19951/16, 28 February 2019, available in French at: <https://bit.ly/3OI4fAf>; *S.Z. v. Greece*, application no. 66702/13, 21 June 2018, available at: <https://bit.ly/45tcBBL>, para. 40.

returns was 2,892 in 2023 (14.07%).<sup>1176</sup> The comparison between the total number of forced returns implemented and the total number of persons detained, corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to returns. This is further corroborated by the fact that the vast majority of forced returns concern only one nationality (citizens of Albania, 68.15%).<sup>1177</sup>

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory:  Yes  No
  - ❖ at the border:  Yes  No
2. Are asylum seekers detained during a regular procedure in practice?
  - Frequently  Rarely  Never
3. Are asylum seekers detained during a Dublin procedure in practice?
  - Frequently  Rarely  Never

#### 1.1 Asylum detention

According to Article 50 Asylum Code, an asylum seeker shall not be detained on the sole ground of seeking international protection or having entered and/or stayed in the country irregularly.<sup>1178</sup> However, as mentioned above, the Asylum Code foresees the possibility to detain asylum seekers who have already applied for asylum while at liberty.

Moreover, an asylum seeker may remain in detention if he or she is already detained for the purpose of removal when he or she makes an application for international protection, and subject to a new detention order following an individualised assessment. In this case, the asylum seeker may be kept in detention on the basis of one of the following five grounds:<sup>1179</sup>

- (a) in order to determine their identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant;
- (c) when it is ascertained on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be affected;
- (d) when he or she constitutes a danger for national security or public order;
- (e) when there is a serious risk of absconding by the applicant, in order to ensure the enforcement of a transfer decision according to the Dublin III Regulation.

For the establishment of a risk of absconding for the purposes of detaining asylum seekers on grounds (b) and (e), the law refers to the definition of “risk of absconding” in pre-removal detention.<sup>1180</sup> The relevant provision of national law includes a non-exhaustive list of objective criteria which may be used as a basis for determining the existence of such a risk, namely where a person:<sup>1181</sup>

- ❖ Does not comply with an obligation of voluntary departure;

<sup>1176</sup> Information provided by the Directorate of the Hellenic Police, 8 February 2020, 11 February 2021, 8 March 2022, 2 February 2023, 18 January 2024

<sup>1177</sup> *Ibid.*

<sup>1178</sup> Article 50(1) Asylum Code.

<sup>1179</sup> Article 50(3) Asylum Code

<sup>1180</sup> Article 18(g) L 3907/2011, cited by Art. 50(2-b) and 50(3-b) Asylum Code.

<sup>1181</sup> Article 18(g)(a)-(h) L 3907/2011.

- ❖ Has explicitly declared that he or she will not comply with the return decision;
- ❖ Is in possession of forged documents;
- ❖ Has provided false information to the authorities;
- ❖ Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- ❖ Does not possess travel documents or other identity documents;
- ❖ Has previously absconded; and
- ❖ Does not comply with an entry ban.

The fact that national legislation includes a non-exhaustive and indicative list of such criteria and thus other criteria not explicitly defined by law can also be used for determining the existence of the “risk of absconding”, is not in line with the relevant provision of the EU law, according to which said objective criteria ‘must be defined by law’.<sup>1182</sup>

Article 50(2)(3) Asylum Code also provided that such a detention measure should be applied exceptionally, after an individual assessment and only as a measure of last resort where no alternative measures can be applied.

As noted above, a detention order under the Asylum Code is issued following prior notification by the Head of the Asylum Service. However, the final decision on the detention lies with the Police. The number of information notes to this end made by the Asylum Service in 2023 is not available.

### 1.1.1 Detention of asylum seekers applying at liberty

In addition, the Asylum Code provides for the possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of any of the grounds provided by article 8 of the Directive 2013/33/EU. According to such grounds, an applicant may be detained only:

- (a) in order to determine or verify his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding by the applicant;
- (c) in order to decide, in the context of a procedure, on the applicant’s right to enter the territory;
- (d) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (9), in order to prepare the return and/or carry out the removal process, and the Member State concerned can substantiate on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
- (e) when protection of national security or public order so requires;
- (f) in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (10).

### 1.1.2 The interpretation of the legal grounds for detention in practice

There is a lack of a comprehensive individualised procedure for each detention case, despite the relevant legal obligation to do so. This is of particular concern with regard to the proper application of the lawful

<sup>1182</sup> Article 3(7) Directive 2008/115/EC; see also *mutandis mutandis* CJEU, C-528/15, *Al Chodor*, 15 March 2017, available at: <https://bit.ly/3q7nVTY>, para. 47, ‘Article 2 (n), in conjunction with Article 28 (2) of the Dublin III Regulation, has the meaning that it requires the Member States to lay down, by means of a binding provision of general application, the objective criteria on the basis of which it is assumed that there is a risk of absconding of the applicant being subjected to a transfer procedure. The absence of such a provision renders Article 28 (2) of that regulation inapplicable’.

detention grounds provided by national legislation, as the particular circumstances of each case are not duly taken into consideration. Furthermore, the conditions and the legal grounds for the lawful imposition of a detention measure seem to be misinterpreted in some cases. These cases include the following:

### **Detention on public order or national security grounds**

As repeatedly reported in previous years, public order grounds are used in an excessive and unjustified manner, both in the framework of pre-removal detention and detention of asylum seekers.<sup>1183</sup> This continues to be the case. The Return Directive does not foresee detention on public order grounds,<sup>1184</sup> and thus the relevant Greek provision on pre-removal detention – Article 30(1)(c) L 3907/2011 – is an incorrect transposition of EU law. For both detainees subject to removal and asylum seekers, detention on public order grounds is usually not properly justified.

The Authorities issue detention orders without prior examination of whether the ‘applicant’s individual conduct represents a genuine, present and sufficiently serious threat’, in line with the jurisprudence of the Council of State and the CJEU.<sup>1185</sup> This is particularly the case where these grounds are based solely on a prior prosecution for a minor offence, even if no conviction has ensued, or in cases where the person has been released by the competent Criminal Court after the suspension of custodial sentences.

In addition, detention on national security or public order grounds has also been ordered for reasons of irregular entry into a territory, contrary to Article 31 of the Refugee Convention and the prohibition on detaining asylum seekers on account of their irregular entry or presence.

This is for example the case of a Pakistani single-woman asylum seeker, supported by GCR, who immediately after her arrival was convicted to a seven-month sentence due to her illegal entry, which has been suspended for 3 years and against which she has appealed. Subsequently, she has been placed in immigration detention on public order grounds due to illegal entry.<sup>1186</sup>

### **Detention despite the lack of actual prospect of return**

Greek Police continue to impose prolonged detention against persons whose removal is not feasible due to the situations prevailing in their country of origin or the suspension of readmissions to Türkiye since March 2020. This practice is applied against both persons who have not applied for asylum and asylum seekers. For example, a total number of 1,752 detention orders have been issued against Afghan nationals during 2023.<sup>1187</sup>

A number of Court decisions acknowledged that in the absence of an actual prospect of removal, detention lacks a legal basis.<sup>1188</sup> Following dozens of cases of successful litigation before domestic Court as well as repeated interventions of the Greek Ombudsman during at least the last two years, this practice has been to a certain degree limited in certain parts of the country. However, the practice is still applicable in detention facilities at the north of Greece (Paranesti and Xanthi PRDCs), in particular against persons from Afghanistan, who remain in prolonged administrative detention despite the lack of any prospect of removal.

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<sup>1183</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018, p. 17, available at: <https://tinyurl.com/4k73tnnh>.

<sup>1184</sup> European Commission, revised *Return Handbook*, 27 September 2017, no longer available online, pp. 78-79.

<sup>1185</sup> CJEU, Case C-601/15 PPU *J.N.*, 15 February 2016, available at: <https://bit.ly/3BXp7vY>, paras 65-67. See e.g., Greek Council of State, Decisions 427/2009, 1127/2009 and 2414/2008, which highlight that a mere reference to a criminal conviction does not suffice for the determination of a threat to national security or public order.

<sup>1186</sup> See, e.g., Administrative Court of Athens, Decision AP2818/2023.

<sup>1187</sup> Directorate of the Hellenic Police 18 January 2024.

<sup>1188</sup> Administrative Court of Kavala Decisions AP504/2023, AP728/2023, AP1098/2023 Administrative Court of Komotini Decisions AP309/2023,

## **Detention of applicants who have already asked for asylum through the online platform**

As mentioned above, persons willing to apply for asylum in the mainland have to present themselves in a mainland RIC (see [Access to the procedure on the mainland](#)). Yet before doing so, they need to first book an appointment through an online platform established by the MoMA. However, during the period from accessing the platform to the day of their appointment, they remain in a legal limbo, they are not protected from arrest, issuance of a removal decision and pre-removal detention and in practice they are arrested and placed in prolonged pre-removal detention. Thus, a number of applicants who have booked a registration appointment through the Ministry's platform have been held in detention despite holding a document proving the existing appointment, in violation of national and European legislation. This pattern was widespread until the end of 2023 and, as a result, a growing number of asylum seekers have been detained in pre-removal detention under L 3386/2005 and L 3907/2011. In February 2023, the Administrative Court of Kavala ruled in a case of an Afghan national represented by GCR that he was unlawfully detained since he had already booked a registration appointment and thus, according to the law, he had to be considered as an asylum seeker.<sup>1189</sup> Several similar decisions have since been issued by other Administrative Courts in line with CJEU case law.<sup>1190</sup>

## **Delays in the asylum procedure resulting in prolonged detention**

Due to the lack of interpretation and adequate capacity of the Asylum Service, the registration of the asylum cases or the conduct of the asylum interview may be delayed for significant periods resulting in prolonged detention. For example, in Korinthos PRDC the full registration of an asylum application may take place after 1 -1 ½ month after the expression of the will of the detained to apply for asylum. In Paranesti PRDC, the postponement and rescheduling of asylum interviews due to lack of interpretation may also lead to prolonged detention of asylum seekers.

## **Overpassing procedures prescribed by national legislation**

National legislation provides that newly arrived persons should be initially subjected to reception and identification procedures prior to any assessment of the possibility to impose detention measures. However, in GCR's experience, newly arrived persons arriving in locations where no RICs/CCACs are in operation (for example Crete, Kalamata etc) are frequently subject to automatic detention in mainland PRDCs instead of Reception and Identification procedures, contrary to national legislation and despite the fact that as a rule they are persons belonging to vulnerable groups as shipwreck survivors and survivors of dangerous sea journeys.

### **1.2 Detention without legal basis or *de facto* detention**

Apart from detention of asylum seekers under the Asylum Code and pre-removal detention under L 3386/2005 and L 3907/2011, detention without legal basis in national law or *de facto* detention measures are being applied for immigration purposes. These cases include the following:

#### **Detention upon entry in RICs or in the 'Closed Controlled Access Centres' (CCAC)**

Since mid-2022 persons willing to apply for asylum on the mainland have to present themselves to Malakasa Reception and Identification Centers (RIC) – for South Greece- or Diavata RIC - for North Greece, in order to undergo reception and identification procedures and for the full registration of their asylum application. Similarly, on the islands, newly arrived persons are transferred to Closed Controlled Access Centers (CCAC) for reception and identification procedure purposes and for the registration of their asylum application (see sections on The domestic framework: Reception and Identification Centres & Registration of the asylum application).

<sup>1189</sup> Administrative Court of Kavala, Decision 163/2023. See also GCR's press release for two subsequent cases, 21 March 2023, available in Greek at: <https://bit.ly/31YJqNv>.

<sup>1190</sup> Administrative Court of Kavala Decisions AP379/2023, AP382/2023 and AP421/2023, Administrative Court of Athens AP721/2023 and AP741/2023, Administrative Court of Xanthi AP209/2023 Administrative Court of Corinth Π1473/2023.

In both cases, as prescribed by Article 40 Asylum Code, all persons in mainland RICs or CCAC on the islands are subject to an up to 25-day restriction of their personal liberty within the premises of the RIC/CCAC, a measure amounting to *de facto* detention, applied in a generalised, indiscriminate manner.<sup>1191</sup> Depending on the registration capacity/workload of the Authorities, prior of the Decision restricting the liberty within the premises of RIC, additional “waiting periods” within the premises of RICs/CCAC are applied which may also amount to *de facto* detention. This means that, in practice, the only option for persons willing to apply for asylum in Greece is to be subjected to a *de facto* detention measure. An infringement letter has been sent to the Greek Authorities by the EU Commission on the ground that this provision leads to blanket and *de facto* detention of asylum seekers, while in accordance with EU law, the detention of asylum seekers can only be imposed exceptionally and under the condition that one of the grounds prescribed in Directive 2013/33/EU is met.<sup>1192</sup>

Other forms of *de facto* detention such as detention pending transfer to RICs, *de facto* detention in RIC, *de facto* detention in transit zones, detention of recognised refugees and detention in the case of alleged pushbacks continued to occur during 2023 according to information received by GCR.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
  - Reporting duties
  - Surrendering documents
  - Financial guarantee
  - Residence restrictions
  - Other
2. Are alternatives to detention used in practice?  Yes  No

Articles 50(2) and 50(3) Asylum Code require authorities to examine and apply alternatives to detention before resorting to detention of an asylum seeker. Article 22(3) L 3907/2011 provides a non-exhaustive list of alternatives to detention for both third-country nationals under removal procedures and asylum seekers. Regular reporting to the authorities and an obligation to reside at a specific area are included on this list. The possibility of a financial guarantee as an alternative to detention is also foreseen in the law, provided that a Joint Decision of the Minister of Finance and the Minister of Public Order will be issued with regard to the determination of the amount of such financial guarantee.<sup>1193</sup> However, based on GCR’s experience, such a Joint Ministerial Decision is still pending since 2011. In any event, alternatives to detention are systematically neither examined nor applied in practice by competent Police Authorities neither prior the issuance of the initial detention decision nor when issuing a decision prolonging the detention.

## 3. Detention of vulnerable applicants

### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
  - Frequently  Rarely  Never
  - ❖ If frequently or rarely, are they only detained in border/transit zones?  Yes  No
2. Are asylum seeking children in families detained in practice?
  - Frequently  Rarely  Never

National legislation provides a number of guarantees with regard to the detention of vulnerable persons, without prohibiting it. According to Article 52 Asylum Code, women should be detained separately from

<sup>1191</sup> *Inter alia* also see Joint Civil Society Statement, *Not Again in 2024: Call for upholding human rights in the Samos Closed Control Access Centre*, January 2024, available at: <https://tinyurl.com/4x79wrs4>, p. 2.

<sup>1192</sup> European Commission, *January Infringements package: key decisions*, 26 January 2023, available at: <https://bit.ly/45tH02U>.

<sup>1193</sup> Article 22(3) L 3907/2011.

men,<sup>1194</sup> the privacy of families in detention should be duly respected,<sup>1195</sup> and the detention of minors should be a last resort measure and be carried out separately from adults.<sup>1196</sup>

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see [Special Reception Needs](#)). However, in practice, persons belonging to vulnerable groups are detained without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order.

In 2023, GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account. These include:

- ❖ A single woman from Pakistan suffering from mental disorder who was detained in PRDC of Amygdaleza for almost three months.
- ❖ A rejected asylum seeker from Democratic Republic of Congo, suffering from PTSD, who was detained in PRDC of Amygdaleza for almost three months.
- ❖ A woman asylum seeker originating from Ghana, victim of domestic and sexual violence, who was detained in PRDC of Amygdaleza for a period of six months.

### 3.1 Detention of unaccompanied children

Following criticism by international bodies and civil society actors as well as several decisions of the ECtHR,<sup>1197</sup> L. 4760/2020 entered into force on 11 December 2020, and abolished the possibility to detain unaccompanied children under the pretext of 'protective custody'.<sup>1198</sup> Other legal provisions that allow the detention of unaccompanied children are still in force.<sup>1199</sup>

Since the start of the implementation of the new legislation, unaccompanied children as a rule do not remain in administrative detention and they are transferred to reception facilities. However, even in 2023, a small number of unaccompanied children, according to official statistics, has been detained, albeit for very short periods. At the end of 2023, 14 unaccompanied children were detained, in most cases for very short periods. In total, 508 unaccompanied children were kept in PRDCs countrywide during 2023.<sup>1200</sup>

#### Detention following wrong age assessment

On 13 August 2020 the Joint Ministerial Decision 9889/2020 entered into force.<sup>1201</sup> It sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum procedure. However, the scope of the JMD 9889/2020 does not apply to age assessments of unaccompanied children under the responsibility of the Hellenic Police, *i.e.*, minor children arrested by the police. In practice, children under the responsibility of police authorities are as a rule deprived of any age assessment guarantees set out in the relevant Ministerial Decision, and systematically undergo medical examinations consisting of left-hand X-ray, panoramic dental X-ray and dental examination in case their age is disputed. In addition to the limited reliability and highly invasive nature of the method used, it should be noted that no remedy exists to challenge the outcome of that procedure.

A number of cases of unaccompanied children detained as adults were identified by GCR during 2023. For example, in a case supported by GCR in 2023 an unaccompanied minor who had wrongfully been registered by the police as an adult remained for more than 2 ½ months in a Police Station and in a PRDC,

<sup>1194</sup> Article 52 (4) Asylum Code.

<sup>1195</sup> Article 52 (3) Asylum Code.

<sup>1196</sup> Article 52 (2) Asylum Code.

<sup>1197</sup> See, *e.g.*, ECtHR, *Rahimi vs Greece*, Application No. 8687/08, 5 July 2011, available at: <https://bit.ly/3WaODZX>.

<sup>1198</sup> Gov. Gazette A' 247/11-12-2020, L. 4760/2020.

<sup>1199</sup> Article 52(2) Asylum Code, article 118 of the Presidential Decree 141/1991 regarding 'protective custody' of unaccompanied minors, L.3907/2011.

<sup>1200</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1201</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020, available in Greek at: <https://bit.ly/3Uz94hZ>.



before being identified as a minor on the basis of the age assessment procedure followed and transferred to a shelter for unaccompanied minors. It should also be noted that those who have been registered as adults remain detained until the fulfilment of the age assessment procedure without any consideration of the presumption of minority and benefit of the doubt that must accompany the age assessment procedure.<sup>1202</sup> The same occurs in cases of individuals who have been sufficiently identified as minors during the first stage of the assessment procedure, yet for whom the stages of the procedure are exhausted, resulting in their ongoing detention until the medical examinations have been carried out.

### 3.2 Detention of families

Despite the constant case law of the ECtHR with regard to the detention of families in the context of migration control,<sup>1203</sup> families with children are in practice detained. Among others, GCR has supported cases throughout 2023 of families, including single-parent families, families with minor children or families where one member remained detained. For instance, GCR has supported cases in which families had remained in detention for periods exceeding one month following a shipwreck before they were transferred to open accommodation facilities.

## 4. Duration of detention

### Indicators: Duration of Detention

1. What is the maximum detention period set in the law (incl. extensions):	
❖ Asylum detention	18 months
❖ Pre-removal detention	18 months
❖ “Protective custody”	None
2. In practice, how long in average are asylum seekers detained?	3-6 months

The Asylum Code has laid down an initial 50-day duration for asylum detention, which can be further prolonged by 50-days, up to a maximum of 18 months. Any previous periods spent in pre-removal detention are not taken into account towards this time limit.<sup>1204</sup>

In practice, the time limit of detention is considered to start running from the moment an asylum application is formally lodged with the competent Regional Asylum Office or Asylum Unit rather than the moment the person is detained. As delays are reported systematically in relation to the registration of asylum applications from detention, *i.e.*, from the moment at which the detainee expresses the will to apply for asylum up to the registration of the application (see [Registration](#)), the period that asylum seekers spent in detention was *de facto* longer.

Beyond setting out maximum time limits, the law has provided further guarantees with regard to the detention period. Thus, detention ‘shall be imposed for the minimum necessary period of time’ and ‘delays in administrative procedures that cannot be attributed to the applicant shall not justify the prolongation of detention.’<sup>1205</sup> Moreover, the law provides ‘the detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees’. However, GCR has documented cases where the procedure was not carried out with due diligence and detention was prolonged precisely because of the delays of the administration.

It should also be mentioned that time limits governing the detention of asylum seekers differ from those provided for the detention of third-country nationals in view of removal. In relation to pre-removal detention, national legislation transposing the Returns Directive provides a maximum detention period

<sup>1202</sup> See *inter alia* EASO, *EASO Practical Guide on age assessment*, 2018, available at: <https://bit.ly/3Sv8yPP>; ECtHR, *Darboe and Camara v. Italy*, Application No. 5797/17, 21 July 2022; UN CRC, *N.B.F. v. Spain*, CRC/C/79/D/11/2017.

<sup>1203</sup> See *e.g.*, ECtHR, *Mahmundi and Others v. Greece*, Application No 14902/10, Judgment of 31 July 2012, available in Greek at: <https://bit.ly/436t650>.

<sup>1204</sup> Article 50(5) Asylum Code.

<sup>1205</sup> Article 50(5) Asylum Code.

that cannot exceed six months,<sup>1206</sup> with the possibility of an exceptional extension not exceeding 12 months, in cases of lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries.<sup>1207</sup>

Following changes in legislation and practice, it is evident that detention lasts for prolonged periods, sometimes risking exceeding the maximum time limits. For instance, out of 2,064 persons detained in PRDCs at the end of 2023, 687 had been detained for periods exceeding six months. Moreover, out of 1,003 asylum seekers detained in PRDCs at the end of 2023, 338 had also been detained for more than six months.<sup>1208</sup>

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?  Yes  No

#### 1.1 Pre-removal detention centres

According to Article 51(1) Asylum Code, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore, asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures.

Seven pre-removal detention centres were active at the end of 2023. The PRDC of Lesbos, has temporarily suspended its operation due to extended damages following the widespread fire of September 2020 that destroyed the Moria RIC within which it was located. The total nationwide pre-removal detention capacity is 3,676 places. According to information provided to GCR by the Hellenic Police on 18 January 2024, the capacity of the pre-removal detention facilities in 2023 is as follows:

Capacity of pre-removal detention centres (2023) <sup>1209</sup>		
Centre	Region	Capacity
Amygdaleza	Attica	1,000
Tavros (Petrou Ralli)	Attica	150
Corinth	Peloponnese	1,344
Paranesti, Drama	Thrace	300
Xanthi	Thrace	210
Fylakio, Orestiada	Thrace	232
Lesvos	Eastern Aegean	0 (in suspension)
Kos	Dodecanese	440
Samos	Eastern Aegean	0
<b>Total</b>		<b>3,676</b>

<sup>1206</sup> Article 30(5) L 3907/2011.

<sup>1207</sup> Article 30(6) L 3907/2011.

<sup>1208</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1209</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

## 1.2 Police stations

Despite public statements from the Greek authorities committing to phase out detention in police stations and other holding facilities, third-country nationals including asylum seekers and unaccompanied children were also detained in police stations and special holding facilities during 2023. As confirmed by the Directorate of the Hellenic Police, there were 261 persons in administrative detention at the end of 2023 in facilities other than pre-removal centres, of whom 14 were asylum seekers.<sup>1210</sup>

As explained in [Grounds for Detention](#), detention is also *de facto* applied in mainland RICs and Closed Control Access Centres of the Aegean Islands.

ECR fix link

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice?  Yes  Limited  No  
❖ If yes, is it limited to emergency health care?  Yes  No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, the authorities must make efforts to ensure that detainees have necessary medical care, and that their right to legal representation is guaranteed.<sup>1211</sup> In any event, according to the law, 'difficulties in ensuring decent living conditions [...] shall be taken into account when deciding to detain or to prolong detention.'<sup>1212</sup>

However, as it has been consistently reported by a range of actors, detention conditions for third-country nationals, including asylum seekers, do not meet the basic standards in Greece.

### 2.1 Conditions in pre-removal centres

#### 2.1.1 Physical conditions and activities

According to the law, detained asylum seekers shall have outdoor access.<sup>1213</sup> Women and men shall be detained separately,<sup>1214</sup> unaccompanied children shall be held separately from adults,<sup>1215</sup> and families shall be held together to ensure family unity.<sup>1216</sup> Moreover, the possibility to engage in leisure activities shall be granted to children.<sup>1217</sup>

GCR regularly visits the pre-removal facilities depending on needs and availability of resources. According to GCR findings, as corroborated by national and international bodies, conditions in pre-removal detention centres vary to a great extent and in many cases fail to meet standards<sup>1218</sup>.

Overall detention conditions in pre-removal detention centres (PRDCs) remain substandard, despite some good practices, which have been adopted in some PRDCs (such as allowing detainees to use their mobile phones). Major concerns include a carceral, prison-like design, the lack of sufficient hygiene and non-food items, including clothes and shoes, clean mattresses and clean blankets, the lack of recreational activities, and overcrowding persisting in some facilities. In March 2020, the CPT acknowledged after its visit that, "[r]egrettably, once again, far too many of the places being used to detain migrants offered

<sup>1210</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1211</sup> Article 51 (7) Asylum Code.

<sup>1212</sup> Article 50(2) and 50(3) Asylum Code.

<sup>1213</sup> Article 51(7) Asylum Code.

<sup>1214</sup> Article 53(4) Asylum Code.

<sup>1215</sup> Article 53(2) Asylum Code.

<sup>1216</sup> Articles 53(3) Asylum Code.

<sup>1217</sup> Article 53(2) Asylum Code.

<sup>1218</sup> See also Equal Rights Beyond borders, *Still Detained and Forgotten*, 28 February 2023, available at: <https://tinyurl.com/yhut82f9> and Mobile Info Team, *Prison for Papers*, February 2023, available at: <https://tinyurl.com/3tjwazxf>.

conditions of detention which are an affront to human dignity.”<sup>1219</sup> The precise observations for each PRDC, included on the previous AIDA report, are still valid.<sup>1220</sup>

In June 2021, the Greek Ombudsman pointed in particular to the following main issues:

- ❖ Overcrowding in detention, especially in police stations;
- ❖ Lack of doctors, nurses, psychologists and social workers;
- ❖ Total lack of interpretation services;
- ❖ Lack of entertaining activities;
- ❖ Poor structures, hygiene conditions and lack of light and heating;
- ❖ Inadequate cleaning;
- ❖ Lack of clothing; and
- ❖ Lack or limited possibility of access to open air spaces.

Poor detention conditions have often been invoked by appeal lawyers during detention reviews, as the court must decide not only on the necessity of detention, but also on its compatibility with certain human rights conditions. The Greek administrative courts have been very reluctant to accept arguments based on the poor detention conditions. In most cases, these arguments have been rejected as ‘vague and inadmissible’, with the justification that ‘direct medical care can be provided [...] there is an area available for physical activity and by its nature it is not only intended for short stay’. In other cases, the conditions of detention are not examined at all.<sup>1221</sup>

According to GCR’s experience, detention conditions in 2023 remained the same as those described above.

### 2.1.2 Healthcare in detention

The law states that the authorities shall make efforts to guarantee access to health care for detained asylum seekers.<sup>1222</sup> Since 2017, the responsibility for the provision of medical services in pre-removal detention centres was transferred to the Ministry of Health, and in particular the Health Unit SA (*Ανώνυμη Εταιρεία Μονάδων Υγείας*, AEMY), a public limited company under the supervision of the Ministry of Health.<sup>1223</sup>

However, substantial medical staff shortage has been observed in PRDFs already since previous years. The CPT has long urged the Greek authorities to improve the provision of healthcare services in all immigration detention facilities where persons are held for periods of more than a day or two.<sup>1224</sup> The general lack of medical screening upon arrival and of access to healthcare have been compounded by the severe shortage of resources, including staffing resources, and the complete lack of integrated management of healthcare services; combined with the lack of hygiene and appalling detention conditions, the Committee considered that they presented a public health risk.

Official statistics demonstrate that the situation has not improved in 2023 and that pre-removal centres continue to face a substantial medical staff shortage. At the end of 2023, there were only six doctors in total in the detention centres on the mainland (2 in **Amygdaleza**, 1 in **Korinthos**, 1 in **Fylakio** and 1 in **Xanthi** and 1 in **Tavros**). Moreover, in **Kos** PRDC, where persons are detained *inter alia* in order to be subject to readmission within the framework of the EU-Türkiye Statement, there was no doctor.<sup>1225</sup>

<sup>1219</sup> Council of Europe’s anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, available at: <https://bit.ly/39ZNL1h>. See also, CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, CPT/Inf (2020) 35, Strasbourg 19 November 2020, available at: <https://bit.ly/3lI3jZ1>.

<sup>1220</sup> AIDA, *Country Report: Greece, 2022 Update*, June 2023, available at: <https://tinyurl.com/yc5456b2>

<sup>1221</sup> OXFAM. GCR, *Detention as the default*, November 2021, available at: <https://bit.ly/3wpTmtW>.

<sup>1222</sup> Article 52(1) Asylum Code.

<sup>1223</sup> Article 47(1) IPA

<sup>1224</sup> For more information on the CPT’s recommendations to Greece, see, *The CPT and Greece*, available at: <https://tinyurl.com/yc7fwrhf>.

<sup>1225</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

According to the official data, the coverage (in percentage) of the required staff in 2023 was as follows:

Provision of medical / health care	Provision of psychological care	Provision of social support services	Provision of interpretation services
Doctors: 33.33%	Psychiatrists: 0%	Social workers: 42.86%	Interpreters: 25.00%
Nurses: 31.71%	Psychologists: 53.85%		
Health visitors: 50.00%			
Administrators: 54.55%			

Source: Information provided by the Directorate of the Hellenic Police, 18 January 2024.

More precisely, at the end of 2023, the number of AEMY staff present in each pre-removal detention centre was as follows:

Category	Amygdaleza	Tavros	Corinth	Paranesti	Xanthi	Kos	Fylakio
Doctors	2	1	1	0	1	0	1
Psychiatrists	0	0	0	0	0	0	0
Nurses	3	3	2	3	2	0	0
Interpreters	3	1	1	0	1	0	1
Psychologists	2	1	2	1	0	0	1
Social workers	2	1	0	1	1	0	1
Health visitors	2	1	1	0	0	0	0
Administrators	1	1	1	1	1	0	0

Source: Information provided by the Directorate of the Hellenic Police, 18 January 2024.

## 2.2 Conditions in police stations and other facilities

In 2023, GCR visited various police stations and special holding facilities where third-country nationals were detained, including in Athens, Thessaloniki and Lesbos.

Police stations are by nature 'totally unsuitable' for detaining persons for longer than 24 hours.<sup>1226</sup> However, they are constantly used for prolonged migration detention. As mentioned above and according to official data, there were 261 persons in administrative detention at the end of 2023 in facilities other than pre-removal centres, of whom 14 were asylum seekers.<sup>1227</sup> According to GCR findings, detainees in police stations live in substandard conditions as a rule, with no outdoor access, poor sanitary conditions, lack of sufficient natural light, no provision of clothing or sanitary products, insufficient food, no interpretation services and no medical services; the provision of medical services by AEMY concerns only pre-removal detention centres and does not cover persons detained in police stations.

Special mention should be made of the detention facilities of the Aliens Directorate of **Thessaloniki** (*Μεταγωγών*). Although the facility is a former factory warehouse, completely inadequate for detention, it continues to be used systematically for detaining a significant number of persons for prolonged periods.<sup>1228</sup>

<sup>1226</sup> CPT, *Report to the Greek Government on the visit to Greece from 13 to 18 April and 19 to 25 July 2016*, CPT/Inf (2017) 25, 26 September 2017, available at: <https://bit.ly/2g4Y9bU>, p. 6.

<sup>1227</sup> Information provided by the Directorate of the Hellenic Police, 18 January 2024.

<sup>1228</sup> Ombudsman, *Συνηγορος του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, p. 46, available in Greek at: <https://tinyurl.com/yzhmrkuk>.

The ECtHR has consistently held that prolonged detention in police stations *per se* is not in line with guarantees provided under Article 3 ECHR and has found over the years a violation of said provision on by the Greek Authorities in a number of cases of persons detained in police stations.<sup>1229</sup>

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

- |  |                                     |     |                                     |         |                          |    |
|--|-------------------------------------|-----|-------------------------------------|---------|--------------------------|----|
| 1. Is access to detention centres allowed to |                                     |     |                                     |         |                          |    |
| ❖ Lawyers:                                   | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/>            | Limited | <input type="checkbox"/> | No |
| ❖ NGOs:                                      | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/>            | Limited | <input type="checkbox"/> | No |
| ❖ UNHCR:                                     | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/>            | Limited | <input type="checkbox"/> | No |
| ❖ Family members:                            | <input type="checkbox"/>            | Yes | <input checked="" type="checkbox"/> | Limited | <input type="checkbox"/> | No |

According to the law, UNHCR and organisations working on its behalf have access to detainees.<sup>1230</sup> Family members, lawyers and NGOs also have the right to visit and communicate with detained asylum seekers. Their access may be restricted for objective reasons of safety or public order or the sound management of detention facilities, as long as it is not rendered impossible or unduly difficult.<sup>1231</sup>

In practice, NGOs' capacity to access detainees is limited due to human and financial resource constraints. Family members' access is restricted due to limited visiting hours and the remote location of some detention facilities.

Another major practical barrier to asylum seekers' communication with NGOs is that they do not have access to free phone calls. Therefore, access *inter alia* with NGOs is limited in case they do not have the financial means to buy a telephone card. While some detention centres (**Amygdaleza, Corinth, Xanthi, Paranesti, Kos**) have adopted the good practice of allowing people to use their mobile phones, others such as **Tavros** and all police stations prohibit the use of mobile phones.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

- |   |                                     |     |                          |    |
|---|-------------------------------------|-----|--------------------------|----|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| 2. If yes, at what interval is the detention order reviewed?    | Not specified                       |     |                          |    |

#### 1.1 Automatic judicial review

L 4375/2016 introduced a procedure for automatic judicial review of the decisions ordering or prolonging the detention of an asylum seeker. The Asylum Code also provides for an *ex officio* judicial control of the detention decision of asylum seekers. The procedure is largely based on the procedure already in place for the automatic judicial review of the decisions extending the detention of third-country nationals in view of return under L 3907/2011.<sup>1232</sup>

<sup>1229</sup> ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012; ECtHR, *S.Z. v. Greece*, Application No 66702/13, 21 June 2018, available at: <https://bit.ly/45tcBBL>, para 40; ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019; ECtHR, *Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia*, Application no. 14165/16.

<sup>1230</sup> Article 51(4) Asylum Code.

<sup>1231</sup> Article 51(5) Asylum Code.

<sup>1232</sup> Article 30(3) L 3907/2011.

Article 50(5) Asylum Code reads as follows:

*'In case of prolongation of detention, the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant's place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record.'*

In addition to concerns expressed in previous years as to the effectiveness of this procedure,<sup>1233</sup> statistics on the outcome of *ex officio* judicial scrutiny confirm that the procedure is highly problematic and illustrates the rudimentary and ineffective way in which this judicial review takes place.

<b>Ex officio review of detention by the Administrative Courts: 2023</b>		
	<b>Under asylum provisions (Article 50 Asylum Code)</b>	<b>Under pre-removal provisions (Article 30 L 3907/2011)</b>
Detention orders transmitted	4,926	1,443
Approval of detention order	4,701	473
No approval of detention order	20	5
Abstention from decision*	4	28

Source: Administrative Court of Athens, Information provided on 12 February 2024.

\* "Abstention from decision" in the Asylum Code (art. 50 par. 5) concerns detention orders transmitted after the expiry of the time limit. For L 3907/2011 cases, according to its interpretation of the law, the Court examines the lawfulness of detention only if detention is prolonged beyond 6 months. Therefore, if detention is prolonged after an initial 3 months up to 6 months, the Court abstains from issuing a decision.

## 1.2 Objections against detention

Apart from the automatic judicial review procedure, asylum seekers may challenge detention through "objections against detention" before the Administrative Court,<sup>1234</sup> which is the only legal remedy provided by national legislation to this end. Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable.

However, in practice, the ability for detained persons to challenge their detention is severely restricted due to ongoing 'gaps in the provision of interpretation and legal aid, resulting in the lack of access to judicial remedies against the detention decisions'.<sup>1235</sup> Firstly, and as a rule as part of an ongoing practice of the Greek authorities, persons in administrative detention are not informed on the grounds of their detention and of the possibility to lodge Objections against them. Detention orders and other relevant documents are communicated to detainees in Greek and are not translated or explained in a language they understand. Moreover, even in case where detainees are actually provided with an "information brochure" in their language, said "information brochure" fails to ensure the provision of information in a simple and accessible manner. Namely, this is the same document which the European Court of Human Rights has already deemed as not capable of providing information in a simple and accessible language, so as for detainees to be reasonably expected to understand the factual and legal grounds of their detention and avail themselves of the legal remedies provided by Greek Law.<sup>1236</sup> Secondly, Greece has still not set up a free legal assistance scheme for review of detention orders before Administrative Courts and in practice detainees cannot effectively lodge Objections against their detention.

<sup>1233</sup> UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum: Mission to Greece*, 18 April 2013, A/HRC/23/46/Add.4, available at: <http://bit.ly/2kZ7D8R>, para 57.

<sup>1234</sup> Article 50(6) Asylum Code, citing Article 76(3)-(4) L 3386/2005.

<sup>1235</sup> UNWGAD, *Working Group on Arbitrary Detention: Preliminary Findings from its visit to Greece (2 - 13 December 2019)*, 13 December 2019, available at: <https://tinyurl.com/2wdp5dk6>.

<sup>1236</sup> J.R. and other v. Greece, op.cit., paras. 123-124; O.S.A and other v. Greece, op.cit, para. 54 and Kaak and other v. Greece, op. cit. para. 123.

Over the years the ECtHR has found that the objections remedy is not accessible in practice.<sup>1237</sup>

In February 2019, the Court found a violation of Article 5(4) ECHR, emphasising that the detention orders were only written in Greek and included general and vague references regarding the legal avenues available to the applicants to challenge their detention. Furthermore, the applicants were not in a position to understand the legal aspects of their case and they did not appear to have access to lawyers on the island where he was detained. In connection with this, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available.<sup>1238</sup>

In another judgment issued in October 2019, the Court also found a violation of Art. 5(4) as the decision, which indicated the possibility of lodging an appeal, was written in Greek; It was not certain that the applicants, who had no legal assistance in either Vial or the former Souda camps in Chios, had sufficient legal knowledge to understand the content of the information brochure distributed by the authorities, and especially the material relating to the various remedies available under domestic law. The Court also noted that the information brochure in question referred in a general way to an “administrative court”, without specifying which one. However, there was no administrative court on the island of Chios, where the applicants were detained, and the nearest one was on the island of Lesbos. Even assuming that the remedies were effective, the Court did not see how the applicants could have exercised them. Having regard also to the findings of other international bodies, the Court considered that, in the circumstances of the case, the remedies in question had not been accessible to the applicants.<sup>1239</sup>

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,<sup>1240</sup> as the lawfulness of detention, including detention conditions, was not examined. In order to bring national law in line with ECHR standards, legislation was amended in 2010. Notwithstanding, the ECtHR subsequently found in a number of cases that the lawfulness of applicants’ detention had not been examined in a manner equivalent to the standards required by Article 5(4) ECHR,<sup>1241</sup> and “the applicant did not have the benefit of an examination of the lawfulness of his detention to an extent sufficient to reflect the possibilities offered by the amended version” of the law.<sup>1242</sup> This case law of the ECtHR illustrates that the amendment of the national legislation cannot itself guarantee an effective legal remedy in order to challenge immigration detention, including the detention of asylum seekers.

### **Effectiveness of the judicial review in Objection against detention**

Based on the cases supported by GCR, it seems that the objections procedure may be marred by a lack of legal security and predictability, which is aggravated by the fact that no appeal stage is provided in order to harmonise and/or correct the decisions of the Administrative Courts. GCR has supported a number of cases where the relevant Administrative Courts’ decisions were contradictory, even though the facts were substantially the same.

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<sup>1237</sup> ECtHR, *J.R. and Others v. Greece*, Application No 22696/16, Judgment of 25 January 2018, available in Greek at: <https://bit.ly/3MAFjYN>, para 99.

<sup>1238</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019, available in Greek at: <https://bit.ly/3WwhOEU>.

<sup>1239</sup> ECHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019, available in Greek at: <https://bit.ly/43bEmgD>.

<sup>1240</sup> See e.g., ECtHR, *Rahimi v. Greece* Application No 8687/08, Judgment of 5 April 2011, available in Greek at: <https://bit.ly/3IDXE69>; *R.U. v. Greece* Application No 2237/08, Judgment of 7 June 2011, available at: <https://bit.ly/3MA2QsP>; *C.D. v. Greece*, Application No 33468/10, Judgment of 19 March 2014, available at: <https://bit.ly/3RH72us>.

<sup>1241</sup> ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016, available in Greek at: <https://bit.ly/3qdUKhU>; *Mahammad and others v. Greece*, Application No 48352/12, 15 January 2015, available in Greek at: <https://bit.ly/437MYVF>; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014, available in Greek at: <https://bit.ly/3OF4Xyd>; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013, available in Greek at: <https://bit.ly/3OFLj5d>. In this last case, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.

<sup>1242</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, available at: <https://bit.ly/45tcBBL>, para 72.



This is for example the case of persons detained despite the halt on removals to Türkiye since March 2020. In a number of 2023 rulings on Objections against detention, competent Courts made no assessment of the impact of the suspension of removal on the lawfulness of detention and, instead, sometimes held that “*it is not certain that the halt in removals will have a permanent character*”.<sup>1243</sup> In other cases, also ruled upon in 2023, competent Courts expressly acknowledged that the suspension of readmissions to Türkiye made the continuation of the detention measure unlawful.<sup>1244</sup>

Moreover, administrative Courts’ lack of a proper examination, or disregard, of applicants’ critical submissions regarding the lawfulness of their detention includes also cases where courts:

1. have disregarded allegations that detention has been ordered on grounds not set out in national legislation<sup>1245</sup>
2. have refrained from terminating pre-removal detention of *bona fide* asylum seekers<sup>1246</sup>
3. have failed to assess the impact of the impossibility of removal in cases of asylum seekers, whilst citing the C-601/15 PPU J.N. ruling of the CJEU to state that detention of asylum seekers is imposed to ensure the effectiveness of the removal procedure.<sup>1247</sup>
4. ineffectively assessed allegations on detention conditions. As a rule, courts dismiss them as unsubstantiated<sup>1248</sup> and/or solely examine detention conditions based on information provided by the Hellenic Police.

In 2023, only 5,001 objections against detention were submitted to the competent Administrative Courts across the country compared to a total of 20,540 detention orders issued by national authorities.<sup>1249</sup> This illustrates the fact that, in practice, a very small number of persons in detention do have access to the legal remedy provided by national legislation against detention.

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
 Yes                       No
2. Do asylum seekers have effective access to free legal assistance in practice?  
 Yes                               No

Article 50(7) Asylum Code provides that ‘*detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order...*’

In practice, no free legal aid system has been set up to challenge their detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive.<sup>1250</sup> This continued to be the case in 2023, where very few NGOs, including GCR, were providing free legal assistance to detainees with limited resources. No free legal aid is provided in order for a detainee to challenge their detention decision before Courts, contrary to national and EU law. In 2023, out of the total 20,540 detention orders issued, only 5,001 (26.4%) were challenged before a Court.

In general, lawyers can easily contact their clients and visit them in pre-removal detention centers. Meetings are usually taking place in privacy but there have been cases where they happened with the

<sup>1243</sup> Administrative Court of Komotini, Decision AP115/2023, 10 March 2023; rejecting the remedy by stating the ‘it is not proven that the suspension (of removals) will continue up until the maximum detention time limit provided by Art. 30 L. 3907/2011 by which the Authorities must carry out the removal’.

<sup>1244</sup> Administrative Court of Kavala Decisions AP728/24-07-2023, AP1098/28-11-2023, AP504/12-5-2023, Administrative Court of Komotini, Decision AP309/16-6-2023.

<sup>1245</sup> Administrative Court of Athens, Decision AP1664/2023, 16 June 2023, Administrative Court of Athens, Decision AP709/2023, 14 March 2023.

<sup>1246</sup> Administrative Court of Athens, Decision AP2818/2023, 2 November 2023.

<sup>1247</sup> Administrative Court of Athens, Decision AP1645/2023, 9 June 2023.

<sup>1248</sup> Administrative Court of Athens, Decision AP1893/2022, 17 July 2023.

<sup>1249</sup> Source: Administrative Court of Athens, Information provided on 12 February 2024.

<sup>1250</sup> Article 9(6) recast Reception Conditions Directive.

presence of a police officer. Moreover, lawyers can be accompanied by interpreters while visiting a pre-removal detention center.

The CPT findings from 2018 confirm that ‘*the information provided was insufficient – particularly concerning their (legal) situation [...] there was an almost total lack of available interpretation services in all the establishments visited [...] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer [...] As a result, detainees’ ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer*’.<sup>1251</sup> This situation persisted since and throughout 2023.

As mentioned above, the ECtHR *inter alia* took into consideration the lack of legal aid to challenge detention conditions and found a violation of Article 5(4) ECHR in two 2019 cases<sup>1252</sup> and another one in 2021.<sup>1253</sup>

## E. Differential treatment of specific nationalities in detention

As already noted (see section on [Overpassing procedures prescribed by national legislation](#)), newly arrived persons arriving in locations where no RICs/CCACs are in operations (for example Crete, Kalamata etc) are frequently subject to automatic detention in mainland PRDCs instead of Reception and Identification procedures. As part of this practice, towards the end of 2023 differential treatment was observed in some cases and namely in the case of 36 Egyptian nationals who were rescued in October 2023 as part of a SAR operations in the South of Greece, and who were subsequently transferred to the Corinth PRDC, where they have since remained in detention, without ever having undergone reception procedures, despite expressing their will to apply for asylum, which was registered in January 2024. On 13 May 2024, the Greek Ombudsman intervened on their behalf, *inter alia* noting that:<sup>1254</sup>

- bypassing of the First Reception Service, through direct detention in PRDCs for both new arrivals in Evros and those rescued in shipwrecks, raises questions in terms of the law’s circumvention, the distortion of the character of the PRDCs and the consideration of all new arrivals as detainees to be returned.
- where there is no reasonable prospect of removal, detention shall be lifted.
- and questions are raised as to the separation of the specific applicants from the rest of their rescued fellow nationals and the imposition of a detention ban on them.

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<sup>1251</sup> CPT, *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, available at: <https://bit.ly/3MxmQMF>, paras 78-80.

<sup>1252</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019, available in Greek at: <https://bit.ly/3WwhOEU>; ECtHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019, available in Greek at: <https://bit.ly/47X5eU0>.

<sup>1253</sup> ECtHR, *E.K. v. Greece*, 15 January 2021, available at: <https://bit.ly/46WH5vp>.

<sup>1254</sup> Greek Ombudsman, 13/5/2024, protocol no.: 348399/23009.

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?

- |                           |  |
|---------------------------|--|
| ❖ Refugee status          | 3 years, renewable for a period of 3 year  |
| ❖ Subsidiary protection   | 1 year, renewable for a period of 2 years  |
| ❖ Humanitarian protection | No longer available through the asylum procedure (available solely pursuant to Article 19 L. 4251/2014 still in force / Article 134 L. 5038/2023, in force from 1 <sup>st</sup> of April 2024) |

Individuals recognised as refugees are granted a three-year residence permit (“ADET”), which can be renewed after a decision of the Head of the Regional Asylum Office.<sup>1255</sup> However, beneficiaries of subsidiary protection do not have the right to receive a three-year permit; instead, they obtain a one-year residence permit, which is renewable for a period of two years.<sup>1256</sup>

Residence permits are usually delivered at least two to three months after the communication of the positive decision granting international protection and the submission of the required documents. As per art. 6(1) of JMD 513542/2022 (Gazette B’ 4763) these are a) an ID photo and a b) a valid asylum seeker card, yet in GCR’s experience, in practice, beneficiaries need to submit a positive decision granting international protection, ID decision and photos and copy of the asylum seeker’s card to the Aliens Police Directorate (‘Διεύθυνση Αλλοδαπών’) or the competent passport office.

The Asylum Service does not notify the beneficiaries individually, through e-mail or any other means of communication, of the issuance of their residence permit.<sup>1257</sup> Rather, the Asylum Service uploads lists of case numbers of the beneficiaries of international protection on the website of Ministry of Migration and Asylum for whom ADET are ready for collection. In such lists, specific dates are set for the collection of ADET.<sup>1258</sup> Therefore, beneficiaries have to regularly consult the daily lists online until they find an entry corresponding to their individual case number.<sup>1259</sup>

On 12 September 2022, a Joint Ministerial Decision was issued providing clarifications on the Procedure for granting a Residence Permit to beneficiaries of international protection.<sup>1260</sup> According to Article 5(1) of the aforementioned JMD, the Regional Asylum Office (RAO) or Autonomous Asylum Unit (AAU) issuing the ADET Decision must have the same territorial competence as the Passport Office of the Hellenic Police, which will subsequently carry out the issuance of the ADET. Otherwise, the Hellenic Police does not accept the application. In such a case, beneficiaries of international protection have to apply again to a territorially competent RAO or AAU to receive an official copy of their asylum decision and ADET Decision, stamped by that office. For instance, the Aliens Unit of Attica (Τμήμα Αλλοδαπών Αττικής, TAA) is territorially competent for cases handled by the RAO and AAU of Attica.<sup>1261</sup>

<sup>1255</sup> Article 23(1) Asylum Code.

<sup>1256</sup> *Ibid.*

<sup>1257</sup> Contrary to what is applicable for immigrants, who can be informed individually for the issuance of their residence permit through <https://pf.emigrants.ypes.gr/pf/>, such platform does not exist for the individual information of beneficiaries of international protection regarding the issuance of their residence permits.

<sup>1258</sup> Ministry of Migration, *Initial Residence permits that are ready*, available at: <https://bit.ly/3QiENRL>.

<sup>1259</sup> See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C>, para 17.

<sup>1260</sup> JMD 513542/2022, Gov.Gazette 4763/B/12-9-2022, available in Greek at: <https://bit.ly/3WdBvTG>.

<sup>1261</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/42TxVza>, p. 6.

It is worth mentioning that until the issuance of the residence permits, beneficiaries keep their asylum seeker card and are considered asylum applicants by ERGANI (*ΕΡΓΑΝΗ*), the Information System of the Ministry of Employment.<sup>1262</sup> In practice, this means that, without a valid residence permit, beneficiaries of international protection are unable to access the labour market.<sup>1263</sup> A positive amendment of article 57(1) Asylum Code in late December 2023, which reduces the period during which asylum applicants do not have a right to work from six to two months following the lodging of their application,<sup>1264</sup> might provide a partial and indirect solution for beneficiaries still holding an applicant's card after at least two months following the lodging of their application, by allowing them access the labour market even if still considered applicants by ERGANI, albeit not to self-employment. Nevertheless, even if this ends up being the case, and notwithstanding the fact that beneficiaries' access to their rights cannot be dependent on indirect or partial solutions, this will still not apply to those granted international protection before the completion of 60 days from the lodging of their application, whom without a valid residence permit (ADET), will still be unable to enjoy access to the labour market.

Moreover, after delivery of the residence permit (*Α.Δ.Ε.Τ.*), the Asylum Service notifies the Electronic Governance of Social Security S.A. (*ΗΔΙΚΑ Α.Ε.*) to deactivate the Provisional Foreigner's Insurance and Health Care Number for asylum seekers (*ΠΛΑΥΠΑ*). Along with the delivery of residence permit, the Asylum Service is obliged to inform the beneficiaries of international protection that they are henceforth eligible to acquire a social security number (*ΑΜΚΑ*) and that they must take the legally required steps for its issuance within one (1) month.<sup>1265</sup> In practice, due to the delay of the electronic system of *ΗΔΙΚΑ*, beneficiaries of international protection have no access to health care for many months.

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in an application for renewal, without any justification/reason, cannot lead to its rejection.<sup>1266</sup> A recent circular of the Ministry of Migration and Asylum<sup>1267</sup> specifies that "reasons" should be interpreted as follows: *"the mere submission of any reason for negligence on the part of the beneficiary in submitting the application in time shall not suffice. Reasons shall be given which in fact justify exceeding of the deadline set by law on the basis of objective criteria or events, without mandatory written evidence. The reasons invoked by the applicant shall be accepted where they are in line with the conduct of the ordinary reasonable person"*.<sup>1268</sup>

However, in case of delay in the submission of an application for renewal without due reasons, a fine of EUR100 is imposed. The authority responsible for the procedure of imposing the fine shall be determined by a joint decision of the Ministers of Immigration, Asylum and Finance.<sup>1269</sup> In practice, this fine has never been imposed.

Since 2017, the application for renewal, together with a digital photo of the beneficiary, is submitted via email to the Asylum Service and the latter's decision is notified to the applicant also via email. Accordingly, bearing in mind that legal aid is not provided at this stage, technologically illiterate beneficiaries of international protection face obvious obstacles to apply for the renewal of their permit.

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<sup>1262</sup> See website of the Ministry of Employment: <https://bit.ly/3KZj7oE>.

<sup>1263</sup> Holding a valid residence permit is a prerequisite for accessing the labour market, as per article 26 Asylum Code.

<sup>1264</sup> Article 192 L. 5078/2023 (Gov. Gazette A 211/20.12.2023), amending article 57(1) Asylum Code.

<sup>1265</sup> Articles 10 & 11, JMD Φ80320/109864/14.12.2023, Gov. Gazette B 7280/22.12.2023.

<sup>1266</sup> Article 23(1) Asylum Code, JMD 513551/2022, Gov. Gazette B' 4763/12.09.2022

<sup>1267</sup> Ministry of Migration and Asylum, Circular 69244/2023 – *Εγκύκλιες Οδηγίες σχετικά με την εφαρμογή της με Αριθμ. 513551/05.09.2022 (B' 4763) Κοινής Απόφασης των Υπουργών Οικονομικών και Μετανάστευσης και Ασύλου «Καθορισμός του αρμόδιου οργάνου επιβολής και της διαδικασίας βεβαίωσης του προστίμου του έβδομου εδαφίου της παρ. 1 του άρθρου 23 του ν. 4939/2022 (Α' 111)», 1 February 2023, 4.*

<sup>1268</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 8. See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/45y1CY1>, pp. 6-7.

<sup>1269</sup> Article 17 L. 4825/2021.

GCR is aware that long waiting periods are observed in a number of renewal cases. In practice, these often last more than a year, as noted by the Greek Ombudsman.<sup>1270</sup> According to GCR knowledge, these delays are due to the high number of applications and the fact that the Asylum Unit of International Protection Beneficiaries (*Αυτοτελές Κλιμάκιο Ασύλου Δικαιούχων Διεθνούς Προστασίας*) is extremely understaffed, as mentioned in the letter of Director of the Asylum Service of 16 February 2024 (prot. no. 58515) in response to the intervention by 16 Non - Governmental Organisations of the national Legal Aid Working Group.<sup>1271</sup> Specifically, according to the aforementioned letter, only 8 employees are in charge of processing all the renewals' applications and the issuance of renewals' decisions in Greece.<sup>1272</sup>

During the renewal procedure, the Asylum Service process criminal record checks on the beneficiaries of international protection, which may lead to the withdrawal of their protection status.

Pending the issuance of a new residence permit, beneficiaries of international protection are provided with a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for six months. This certificate is providing the beneficiaries with less rights (e.g., no access to the labour market, social welfare or to public healthcare, with the exception of emergencies) than the certificate of art. 8 L.4251/2014 issued for migrants. In fact, beneficiaries of international protection holding these certificates are only protected from detention and have access to no rights at all pending their residence permit renewals. For the issuance of this certificate, the renewal application must have been uploaded to the electronic system of "ALKYONI" (*ΑΛΚΥΟΝΗ*). According to GCR's observations, the Asylum Unit for Beneficiaries of International Protection uploads the application up to a month after the initial submission of the renewal application. Besides, recent interventions from the Ombudsman in January 2023 express "*concerns regarding the practice of recording and uploading the application at a different point than the time of submission – after several months in certain cases*", bearing in mind that according to Article 12 of the Code of Administrative Procedure (L. 2690/1999) requires recording any document received by a public authority on the same day. The Ombudsman has recalled this obligation to the Asylum Service in the specific context of ADET renewal applications<sup>1273</sup>. The administration has given assurances to the Ombudsman on immediate uploading of ADET renewal applications on the "Alkyoni" database.<sup>1274</sup> However, according to the letter of the Director of the Asylum Service, it is explicitly stated that the applications are given protocol number within 5 days from the submission of the renewal application via e-mail.<sup>1275</sup>

In practice, beneficiaries whose residence permit has expired and who hold the certificate of application (*βεβαίωση κατάστασης αιτήματος*),<sup>1276</sup> while awaiting the renewal of their residence permit face obstacles in accessing services such as social welfare, healthcare and the labour market. According to the latest JMD Φ80320/109864/14.12.2023, the Social Security Number (AMKA) is deactivated a day after the residence permit expires.<sup>1277</sup> However, upon submission of the certificate of application along with the

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<sup>1270</sup> Ombudsman, '*Καθυστερήσεις πλέον του έτους στη διαδικασία ανανέωσης Α.Δ.Ε.Τ. σε υπόθεση δικαιούχου διεθνούς προστασίας*', 316047/64653/2022, 28 November 2022.

<sup>1271</sup> Intervention by 16 NGOs of the national Legal Working Group to the Minister and Vice Minister of the Ministry of Migration and Asylum, *Renewal of identification documents of beneficiaries of international protection*, prot. no. β/117/15.02.2024. Said intervention raised the following issues: (a) Long delays in the processing of applications for renewal of ADETs and travel documents by the Asylum Service, (b) Non-acceptance of the Asylum Service's "Certificates of beneficiaries of international protection", (c) Obstacles in the communication of beneficiaries and legal representatives with the Asylum Unit of International Protection Beneficiaries, (d) Ineffective means and procedures for the service of the issued ADETs and travel documents by the Asylum Service.

<sup>1272</sup> Letter of Director of the Asylum Service, *Renewal of identity documents of beneficiaries of international protection*, prot. no. 58515/16.02.2024.

<sup>1273</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 9.

<sup>1274</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/45y1CY1>, p. 7.

<sup>1275</sup> Letter of Director of the Asylum Service, *Renewal of identity documents of beneficiaries of international protection*, prot. no. 58515/16.02.2024. The original letter is available at GCR.

<sup>1276</sup> Article 13 JMD 513542/2022, Gov. Gazette B' 4763/12.09.2022.

<sup>1277</sup> Article 7 JMD Φ80320/109864/14.12.2023, Gov. Gazette B 7280/22.12.2023.

rest of the required documents prescribed in the JMD, AMKA can be re-activated.<sup>1278</sup> As far as GCR is aware, public services, such as the Public Employment Service (*Δημόσια Υπηρεσία Απασχόλησης/ΔΥΠΑ*, formerly OAED), are reluctant to accept this certificate of application, since the certificates do not constitute a document with security features (possibility of verification of the holder's identity), in particular due to the lack of a photograph of the holder of the beneficiary of international protection. It is stressed that a photograph of the beneficiaries is, however, available in the Asylum Service's files and could be obtained for this purpose either from the attached file of the electronically submitted application for renewal or from the administrative file kept by the Asylum Service, which includes a "facial image". However, this procedure has not been implemented to date. In response to the aforementioned intervention, the Director of the Asylum Service, explicitly mentions in the letter dated 16.02.2024 that the relevant legislation will be amended so that the application for the renewal of ADET will be submitted via a specific electronic platform with an initial and subsequent electronic issuance of a certificate of pending renewal. The adoption of a relevant legislative and regulatory framework is pending. This legal framework will define specific requirements for the certificate, with the possibility of verification of the validity of the data and the authenticity of the document, in line with the standards of the Code of Immigration. Such certificates will also include provision for their general acceptance by third parties.

That being said, in April 2023, there was a positive legal amendment of Greece's Migration Code (L. 5038/2023). Article 9 (ι), in conjunction with art. 10 (8, β) and article 11(10) therein might bring a resolution to the accessibility gap/barrier created for beneficiaries each time an ADET is pending issuance and/or renewal, given that said provision seem to be addressing the limitations of the aforementioned attestation (e.g., photo, watermark). However, these provisions will be entering into force from 31 March 2024 and onwards, and therefore close monitoring is needed to ensure they also lead, in practice, to the envisioned results.

It is worth noting that beneficiaries are never served their official renewal decision. They are simply notified via email by the Asylum Service that the renewal of their residence permit has been accepted. This notice also outlines the procedure that they ought to follow to submit the required documentation before the competent Alien's Directorate for the issuance of their renewed residence permit. In practice, after the notification email is sent, the beneficiaries should follow the exact same procedure they followed for the initial issuance of their residence permit. For the deliverance of their renewed residence permits, the Asylum Service does not notify the beneficiaries individually. It uploads on its website a list of case numbers for which the renewed ADET are ready for collection on an indicated day. Therefore, beneficiaries have to regularly consult the lists online until they find an entry corresponding to their individual case number. However, the lists of the renewed residence permits are announced on the same segment of the website of the Ministry as the residence permits that are issued for the first time. This creates an enormous confusion to beneficiaries considering that the residence permit guidelines of the Asylum Service advise them to consult the list of the renewed residence permits. However, only the RAO of Chios and Leros upload the lists of the renewed ADET on the specific platform created for this purpose, contrary to other RAOs.<sup>1279</sup>

Returnees from other countries who may have been granted status several years before the establishment of certain Offices and Units face many obstacles upon their return to Greece. In particular, returnees arriving at Athens International Airport do not receive clear and accurate information on the authorities they should approach in order to obtain or renew their documentation.<sup>1280</sup> They also do not receive any information on procedures for accessing their rights in Greece,<sup>1281</sup> including on the possibility to access housing, given housing options for returnee beneficiaries do not exist in Greece.

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<sup>1278</sup> Article 8 in conjunction with Articles 5 and 6 of JMD Φ80320/109864/14.12.2023, Gov. Gazette B 7280/22.12.2023.

<sup>1279</sup> MoMA, *Initial Residence Permits that are Ready*, available at: <https://bit.ly/3QiENRL>. The separate page for renewed residence permits is available at: <https://bit.ly/4aOprgn>.

<sup>1280</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/45y1CY1>, p. 8.

<sup>1281</sup> *Ibid.*

Data concerning the total number of applications for renewal and the respective positive decisions was not provided by the Asylum Service for the year 2023, even though GCR has requested it. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry's website "and in particular at the link: <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]"<sup>1282</sup>. Yet a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

Nevertheless, as reported in a 16 February 2024 letter of the Director of the Asylum Service, which came in response to an intervention submitted by 16 NGOs, at the time, 4,029 renewals applications were pending, out of which only 1,871 were under examination. Out of the total 4,029 pending renewal applications, 300 had also not even been given a protocol number, while 1,858 were in the process of being charged to an employee of the Asylum Unit of International Protection Beneficiaries.<sup>1283</sup>

For those granted international protection under the "old procedure" prescribed by [Presidential Decree 114/2010](#), the renewal procedure is conducted by the Aliens Police Directorate (*Διεύθυνση Αλλοδαπών*). Within the framework of this procedure, the drafting of a legal document for the renewal application is required. Based on available Country of Origin Information (COI), the application must demonstrate that reasons of persecution still exist. The decision used to be issued after a period of more than a year.<sup>1284</sup> The delay in the renewal procedure is caused by that with which Courts provide data for potential ongoing criminal proceedings against beneficiaries and by the size of the administrative files of beneficiaries and the fact the files are available only in hard copy and not digitally. Due to these delays, a large number of beneficiaries of international protection, for over a year, have no access to the labour market, social security, social welfare and sometimes healthcare, thus facing destitution and homelessness. The certificate of application (*βεβαίωση κατάθεσης αίτησης ανανέωσης άδειας διαμονής*) provided by the Aliens Directorate, similarly to the certificate of application provided by the Asylum Service, lacks a photo, serial number, watermark and any relevant legal provisions allowing the document to be accepted by other Greek Public Authorities. Moreover, this certificate has no expiration date.

In response to GCR's request, the Headquarters of the Hellenic Police provided, among others, data on renewal applications. In particular, during 2023, 345 applications for renewal of residence permits of refugees were submitted before the Headquarters of the Hellenic Police, of which 272 applications were granted positive decisions. 9 applications out of 345 were rejected, while 64 were still pending. Furthermore, during 2023, 200 applications for renewal of residence permits of beneficiaries of subsidiary protection were submitted before the Headquarters of the Hellenic Police, of which 145 applications were granted positive decisions. 3 applications out of 200 were rejected, while 25 applications were still pending. It was stressed by the Headquarters of the Hellenic Police that an individual assessment is made for each renewal application.<sup>1285</sup>

Lastly, according to a survey conducted by UNHCR from July 2022 – June 2023 with 424 beneficiaries of international protection, 60% of those interviewed reported that they had residence permits.<sup>1286</sup>

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<sup>1282</sup> MoMA, Analysis and Studies Office, *Reply to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project*, received on 14 February 2024 (protocol number: 55259).

<sup>1283</sup> Letter of Director of the Asylum Service, *Renewal of identity documents of beneficiaries of international protection*, prot. no. 58515/16.02.2024.

<sup>1284</sup> See ECRE, *AIDA, Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3VMjZWa>.

<sup>1285</sup> Reply of Headquarters of the Hellenic Police, *Statistics – AIDA REPORT on GREECE 2020*, prot. no.: 1016/125-300109/16.02.2024.

<sup>1286</sup> UNHCR, *Key Findings: July 2022 – June 2023, Protection Monitoring of Refugees in Greece*, August 2023, available at: <https://bit.ly/4dgyE2l>.

## 2. Civil registration

According to Article 20(1) L. 344/1976, the birth of a child must be declared within 10 days to the Registry Office of the municipality where the child is born.<sup>1287</sup> In case of late declaration, the person liable for the declaration of the relevant civil status event shall submit along with an application, a fee of thirty (30) euros if the declaration is made after the expiry of the ten-day deadline provided for in Article 20(1) and sixty (60) euros if the declaration is made after the expiry of ninety (90) days from the date on which the event occurred.<sup>1288</sup>

As for the birth registration, beneficiaries of international protection have reported to GCR that if they do not or cannot obtain a certified marriage certificate from their country of origin, the child is declared without a father's name. The Asylum Service issues family status verifications. However, these verifications state that the family status of the beneficiaries of international protection is according to their declaration, with the result that in many cases they are not accepted by public services (e.g., EFKA, Tax Authorities, KEP (Citizens' Service Center) since they are perceived as solemn declarations and not as certificates. Contrary to the Asylum Service, the Headquarters of the Hellenic Police do not issue family status verifications, despite the provision of Article 25 Asylum Code. Another difficulty is the fact that according to Greek Legislation, the father's first name or grandfather's first name cannot be used as the child's surname, as it is the case in many countries of origin of beneficiaries of international protection. This is a very common mistake made by many mothers and interferes with the name-giving (*ονοματοδοσία*) of the child, especially when the child's father is not residing in Greece. In these cases, it is hard to prove that the person that signed the authorisation to the mother for the name-giving is the declared father of the child in the birth certificate and, since the name-giving is one of the essential rights of a legal guardian, a court must make a decision concerning the removal of the parental responsibility of the parent not residing in Greece in order for the other parent to be able to proceed alone with the name-giving. This is a lengthy and uncertain legal procedure since the Greek Civil Code provides strict grounds for termination of parental responsibility.<sup>1289</sup> With the Ministerial Decision 9169 ΕΞ 2022-10.3.2022, the name-giving (*ονοματοδοσία*) could be done electronically through the Greek government's official webpage.<sup>1290</sup> However, in order to access the electronic site of the Greek Government (gov.gr), the beneficiary would need to verify his phone number through e-banking. The system theoretically allows the usage of taxisnet codes (taxation/fiscal electronic codes used for the submission of tax declaration). In practice, after a couple of steps, if the beneficiary's phone number is not verified through e-banking, the system shuts down. This means that a large number of beneficiaries *de facto* cannot access this new electronic name-giving system.

A marriage must be declared within 40 days at the Registry Office of the municipality where it took place.<sup>1291</sup> In case of late declaration, the beneficiaries shall submit along with an application, a fee of thirty (30) euros if the declaration is made after the expiry of the 40-days deadline provided for in Article 29(1) and sixty (60) euros if the declaration is made after the expiry of ninety (90) days from the date on which the event occurred.<sup>1292</sup> In order to get legally married in Greece, the parties must provide a birth certificate and a certificate of celibacy from their countries of origin.<sup>1293</sup> For recognised **refugees**, due to the disruption of ties with their country of origin, the Ministry of Interior has issued general orders to the municipalities to substitute the abovementioned documents with an affidavit of the interested party.<sup>1294</sup> However, asylum seekers and beneficiaries of subsidiary protection are still required to present such documentation which is extremely difficult to obtain, and face obstacles which undermine the effective enjoyment of the right to marriage and the right to family life, in some cases leading them to obtain a court order for the officiation of their wedding ceremony.<sup>1295</sup>

<sup>1287</sup> Article 20 L. 344/1976 on Civil Registration Acts, Gov.Gazette A 143/11.6.1976.

<sup>1288</sup> Article 49(1) L. 344/1976.

<sup>1289</sup> Article 1532 Greek Civil Code.

<sup>1290</sup> Ministerial Decision 9169 ΕΞ 2022-10.3.2022, Gov. Gazette B' 1210/16.03.2022).

<sup>1291</sup> Article 29(1) L. 344/1976.

<sup>1292</sup> Article 49(1) L. 344/1976.

<sup>1293</sup> Article 1(3) P.D. 391/1982.

<sup>1294</sup> See e.g., Ministry of Interior, General Orders to municipalities 4127/13.7.81, 4953/6.10.81 and 137/15.11.82.

<sup>1295</sup> Single Member Court of First instance of Athens 6459/2009,3581/2010 Single-member Court of First Instance of Kos 390/2013 and Athens Magistrates' Court 91/2017.



As for the civil partnership, according to GCR knowledge, the Registry Office of Athens, requires from the beneficiaries of international protection to provide interpretation services with their own means in order to be able to register their notarial act of the civil partnership. In these cases, personal data of interpreters appears on the civil partnership certificates, despite the fact that they do not constitute elements of the present act.<sup>1296</sup>

Civil registration affects the enjoyment of certain rights of beneficiaries of international protection. For instance, a birth certificate or a marriage certificate are required to prove family ties in order to be recognised as a family member of a beneficiary of international protection and to be granted a similar residence permit according to Articles 22(2) and 23(3) Asylum Code (see [Status and Rights of Family Members](#)).

In practice, the main difficulties faced by beneficiaries with regard to civil registration are the language barrier and the absence of interpreters at the Registration Offices of the municipalities. This lack leads to errors in birth or marriage certificates, which are difficult to correct and require a court order.

### 3. Long-term residence

#### Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2023: Not available\*

\*(this is with the exception of data provided by (i) the Decentralised Administration of Thessaly – Central Greece, according to which during 2023, no long-term residence permits have been granted to beneficiaries of international protection<sup>1297</sup> and (ii) the Decentralised Administration of Attica – South District, Piraeus & Islands, according to which in 2023, only one long-term residence permit was granted to a beneficiary of international protection with refugee status<sup>1298</sup>)

According to Article 89 L. 4251/2014 (Immigration Code), as in force, third-country nationals are eligible for long-term residence if they have resided in Greece lawfully for five consecutive years before the application is filed. For beneficiaries of international protection, the calculation of the five-year residence period includes half of the period between the lodging of the asylum application and the grant of protection, or the full period if the asylum procedure exceeded 18 months.<sup>1299</sup> Absence periods are not taken into account for the determination of the five-year period, provided that they do not exceed six consecutive months and 10 months in total, within the five-year period.<sup>1300</sup> A fee of €150 is also required.<sup>1301</sup>

To be granted long-term resident status beneficiaries of international protection must also fulfil the following conditions:<sup>1302</sup>

- ❖ Sufficient income to cover their needs and the needs of their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 10% for all the sponsored family members, also taking into account any amounts from regular unemployment

<sup>1296</sup> Article 9 & 31A L. 344/1976.

<sup>1297</sup> Reply of the Decentralised Administration of Thessaly – Central Greece, Data, prot. no. 10684/09.02.2024.

<sup>1298</sup> Reply of the Decentralised Administration of Attica – South District, Piraeus & Islands, Provision of Data (Aida Report on Greece), prot. no. 2024/7405/16.02.2024. To be noted, the MoMA has published general data for the number of 'other types of residence permits' from January 2023 until January 2024. The total number of initial issuance of other types of residence permits is 6.959 (2023: 6.944 / 2024: 15). The total number of renewed of other types of residence permits is 13.423 (2023: 13.317 / 2024: 106). The category "Other" types of residence permits includes various types of residence permits, including the permanent residence permit of an investor (golden visa), according to article 20B of Law 4251/2014, long-term residence permits, residence permits for the second generation, residence permits for vulnerable groups of third country nationals (humanitarian reasons) and residence permits for exceptional reasons. However, no specific data of long-term residence permits for beneficiaries of international protection is provided. See Ministry of Migration and Asylum, Informative Bulletin, Annex B, January 2024, available at: <https://tinyurl.com/yp9cxvp7>, p. 6-7.

<sup>1299</sup> Article 89(2) L. 4251/2014 (Immigration Code).

<sup>1300</sup> Article 89(3) L. 4251/2014..

<sup>1301</sup> Ministry of Migration and Asylum, *Long Term Residence Permits (Law 4251/2014)*, available in Greek at: <https://bit.ly/3xcrxYU>.

<sup>1302</sup> Article 89(1) L. 4251.2014.

benefits. The contributions of family members are also taken into account for the calculation of the income;

- ❖ Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- ❖ Fulfilment of the conditions indicating integration into Greek society, *inter alia* “good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation”.<sup>1303</sup>

It is noted that the New Immigration Code, L. 5038/2023 shall enter into force on 31 March 2024.<sup>1304</sup> The provisions regarding the long-term residence permits remain the same.<sup>1305</sup>

The submission of application for the initial issuance of long-term residence permits<sup>1306</sup> and for the renewal of long-term residence permits<sup>1307</sup> is now only possible electronically through the special website of the Ministry of Migration and Asylum.

According to GCR’s knowledge, as regards the renewal of travel documents of beneficiaries of international protection, holders of long-term residence permits, the Asylum Service cannot proceed with the renewal of their travel documents, as it is not possible to electronically connect said permits with the travel documents because they were issued by different services (Asylum Service and Decentralised Administrations).

It is stressed that at a meeting of the Council’s permanent representatives committee, EU member states agreed their negotiating mandate for updating the EU long-term residents directive. This directive sets out the conditions under which third-country nationals can acquire EU long-term resident status. In accordance with the Council position, third-country nationals can cumulate residence periods of up to two years in other member states in order to meet the requirements of the five-year residence period. However, in the event of an applicant having resided in another member state, the Council has decided to accept only certain types of legal residence permits, such as holders of EU Blue Cards or residence permits issued for the purpose of highly qualified employment.<sup>1308</sup>

## 4. Naturalisation

### Indicators: Naturalisation

- |  |                               |
|--|-------------------------------|
| 1. What is the minimum residence period for obtaining citizenship? |                               |
| ❖ Refugee status   | 7 years                       |
| ❖ Subsidiary protection  | 7 years                       |
| 2. Number of citizenship grants to beneficiaries in 2023:          | Not available <sup>1309</sup> |

### 4.1 Conditions for citizenship

The Citizenship Code<sup>1310</sup> has been subject to numerous amendments over the years.<sup>1311</sup> Prior to the amendment of March 2020,<sup>1312</sup> refugees could apply for citizenship under condition that they *inter alia* reside lawfully in Greece for a period of three years. The amended legislation has increased this period

<sup>1303</sup> Article 90(2)(a) Immigration Code.

<sup>1304</sup> Article 179 L. 5038/2023 (New Immigration Code).

<sup>1305</sup> Article 144 and 145(2) L. 5038/2023.

<sup>1306</sup> Ministry of Migration and Asylum, *Apply on-line for an initial residence permit*, available at: <https://bit.ly/3JzsSvp>.

<sup>1307</sup> Ministry of Migration and Asylum, *Apply on-line to renew your residence permit*, available at: <https://bit.ly/3JzsSvp>.

<sup>1308</sup> European Council, Council of European Union, *Third-country nationals: EU updates rules for long-term resident status*, Press release, 23 November 2023, available at: <https://bit.ly/3UfJzRo>.

<sup>1309</sup> Ministry of Interior has only published general statistics for all third-country-nationals and only for 2022, without any available statistics for 2023. According to said statistics the total number of citizenship grants, through naturalisation, for all third-country nationals (without specifying the number of beneficiaries of international protection) is 3.150. See statistics available in Greek at: <https://bit.ly/3y3uM4D>, p. 3.

<sup>1310</sup> L. 3284/2004, Gov. Gazette A' 217/10-11-2004.

<sup>1311</sup> See *inter alia* L. 4604/2019, Gov. Gazette A 50/26-03-2019), L. 4674/2020, Gov. Gazette A 53/11-03-2020), L. 4735/2020, Gov. Gazette A' 197/12.10.2020).

<sup>1312</sup> L. 4674/2020.

to seven years,<sup>1313</sup> similarly to the time period required for foreigners residing in Greece on other grounds under migration law, despite the legal obligation under article 34 of the Geneva Convention 1951 to 'facilitate the assimilation and naturalisation of refugees' and 'in particular make every effort to expedite naturalisation proceedings'. The aforementioned amendment does not apply to refugees who had already submitted an application for naturalisation that was still pending by the time L. 4674/2020 entered into force.<sup>1314</sup>

More precisely, according to the Citizenship Code,<sup>1315</sup> citizenship may be granted to a foreigner who:

- (a) Has reached the age of majority by the time of the submission of the declaration of naturalisation;
- (b) Has not been irrevocably convicted of crime/crimes exhaustively listed in the Citizenship Code, committed intentionally in the last 10 years, with a sentence of at least one year or at least six months regardless of the time of the issuance of the conviction decision. Conviction for illegal entry in the country does not obstruct the naturalisation procedure.
- (c) Has no pending deportation procedure or any other issues with regard to his or her status of residence;
- (d) Has lawfully resided in Greece for seven continuous years before the submission of the application;
- (e) Holds one of the categories of residence permits foreseen in the Citizenship Code, *inter alia* long-term residence permit, residence permit granted to recognised refugees or subsidiary protection beneficiaries, or second-generation residence permit

Applicants should also:<sup>1316</sup>

- (a) have sufficient knowledge of the Greek language;
- (b) adequately know the Greek history and geography, the Greek culture and the habits of the Greek people, as well as the functioning of the institutions of the Constitution of the country.
- (c) be normally integrated in the economic and social life of the country. According to the Citizenship Code, supporting documents proving the economic independence of the applicant must be submitted in the application.<sup>1317</sup> Additionally, the above-mentioned law provides that the applicant is not examined through an interview regarding his/her financial independence, yet the examiner of each case is responsible for issuing the decision taking under consideration only the provided documents.<sup>1318</sup> It is worth mentioning that according to Ministerial decision No 29845/16-4-2021, applicants for and beneficiaries of international protection, who have submitted their application before 31-3-2021 are required to submit documents proving their economic independence and social life for the last five years before their application.<sup>1319</sup>

Law 4735/2020 introduced a substantial reform in the naturalisation procedure for third country nationals by providing for the Certificate of Adequacy of Knowledge for Naturalisation (*Πιστοποιητικό Επάρκειας Γνώσεων για Πολιτογράφηση (ΠΕΓΠ)*),<sup>1320</sup> as a prerequisite for applying for naturalisation. The examination procedure is written, as, according to the General Secretary of Citizenship of the Ministry of Interior '*the written test was introduced in order to apply objective evaluation criteria ensuring reliability and transparency, to safeguard the integrity of the process of acquiring Greek citizenship and to harmonize this practice with the practices of other countries at European and international level*'.<sup>1321</sup> The exams take place twice per year, in May and in November.<sup>1322</sup> A pool of questions for the acquisition of the Certificate of Adequacy of Knowledge for Naturalisation and information on the respective exams were posted on the webpage of the Ministry of Interior.<sup>1323</sup> As regards the applicants who are over 62 years

<sup>1313</sup> Article 5(1)(d) Code of Citizenship, as amended by L. 4674/2020.

<sup>1314</sup> Ministry of Interior, Circular No 151/2020, 25 May 2020, available in Greek at: <https://bit.ly/3sDV5pG>, p. 8.

<sup>1315</sup> Article 5(1) Citizenship Code.

<sup>1316</sup> Article 5A (1) Citizenship Code.

<sup>1317</sup> Article 37 L. 4873/2021.

<sup>1318</sup> Article 38 L.4873/2021.

<sup>1319</sup> Ministerial Decision 29845/16.4.2021 Gov. Gazette B 1652/22.4.2021.

<sup>1320</sup> Ministry of Interior, General Secretariat of Citizenship, available at: <https://bit.ly/3s9In31>.

<sup>1321</sup> Ministry of Interior, General Secretariat of Citizenship, available at: <https://bit.ly/4dfyhVJ>.

<sup>1322</sup> In 2024, the exams will take place on 14 April 2024, Ministry of Interior, General Secretariat of Citizenship, available in Greek at: <https://bit.ly/44jqcvt>.

<sup>1323</sup> Ministry of Interior, General Secretariat of Citizenship, available at: <https://bit.ly/3WGrMfB>.

old, those who are unable to take a written test due to learning difficulties, and those with a disability certificate of more than 67% (i.e., 68% or more), the Adequacy of Knowledge for Naturalisation examinations can be oral.<sup>1324</sup> On February 2022, a circular was issued providing more details on the procedure of the exams.<sup>1325</sup> According to the statistics of the General Secretariat of the Ministry of Interior provided on 8 December 2023, in March 2023, 54,13% of the applicants succeeded in the exams and in November 2023, the percentage of the successful applicants was 40,83%.<sup>1326</sup>

## 4.2 Naturalisation procedure

Beneficiaries of international protection who are going to apply for naturalisation must first take exams and get the Certificate of Knowledge Adequacy for Naturalisation. Exempted from this obligation are those who have studied for a given number of years in Greek primary school, elementary school, high school or Greek universities, who can submit a direct application for naturalisation, when completing the required number of previous years of legal residence.<sup>1327</sup> In particular, according to the Ministry of Interior,<sup>1328</sup> this applies to: “(a) those who have successfully completed either nine classes of primary and secondary education or six classes of secondary education (b) those who attend a Greek university and have obtained a bachelor's or master's degree or a doctorate, are exempted from the obligation to obtain the Certificate of Adequacy of Knowledge for Naturalisation (Πιστοποιητικό Επάρκειας Γνώσεων για Πολιτογράφηση (ΠΕΓΠ))”.

Those who have passed the exams and have obtained the Certificate of Knowledge Adequacy for Naturalisation are able to submit an application for naturalisation to the competent Citizenship Directorate of their place of residence, provided they have completed the required years of previous lawful residence in the country (i.e., 7 years).<sup>1329</sup>

A fee of EUR 100 is required for the submission of a naturalisation application for refugees. In case of beneficiaries of subsidiary protection, the fee is EUR 550.<sup>1330</sup> A EUR 200 fee is required for a re-examination of the case.<sup>1331</sup> For the participation in the exams for the acquisition of the Certificate of Knowledge Adequacy for Naturalisation, an additional fee of EUR 150 is required. For those who already had a pending application before the change of the law and the provision of the written test, the first participation in the examinations does not require a fee.<sup>1332</sup>

GCR noticed that, in 2023, the competent Directorates of Citizenship of the Prefectures accepted applications for naturalisation and additional documents mainly by post. Afterwards, the protocol numbers were sent to the beneficiaries of international protection via email up to 15 days and only upon written request by the beneficiaries.

In case of a negative decision, the applicant may file an application for annulment before the competent Administrative Court of Appeal.<sup>1333</sup>

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<sup>1324</sup> Ministry of Interior, General Secretariat of Citizenship, available at: <https://bit.ly/3WcAkUJ>.

<sup>1325</sup> Ministry of Interior, Circular No 81/04.02/2022, *Prot.No: Φ 130181/6929*, 4 February 2022, available in Greek at: <https://bit.ly/3wMsSmz>.

<sup>1326</sup> Ministry of Interior, *General Secretariat of Citizenship, Examination Statistics for the Certificate of Adequacy of Knowledge for Naturalisation*, 08 December 2023, available in Greek at: <https://bit.ly/4aT2VCL>.

<sup>1327</sup> Generation 2.0 For Rights Equality and Diversity, *New naturalization process: what is it about?*, 30.03.2022, available at: <https://bit.ly/44gUsa4>.

<sup>1328</sup> Ministry of Interior, General Secretariat of Citizenship, General Directorate of Citizenship, prot. no. Φ1200000/3316 / 07.05.2021, available in Greek at: <https://bit.ly/3zhfg5L>.

<sup>1329</sup> *Ibid.*

<sup>1330</sup> Article 6(3)(g) Citizenship Code.

<sup>1331</sup> *Ibid.*

<sup>1332</sup> Article 2(c) Ministerial Decision 28881/13.04.2021, Gov. Gazette B' 1535/15.04.2021.

<sup>1333</sup> I. Kamtsidou, Associate Professor of Constitutional Law, *Advisory note on the rejection of an application for naturalisation on the basis of income criteria*, available in Greek at: <https://tinyurl.com/c9xemmmw>.

In case of a positive recommendation, the Minister of Interior issues a decision granting the applicant Greek citizenship, which is, subsequently, published in the Government Gazette.<sup>1334</sup> Greek citizenship is acquired following the oath of the person, within a year from the publication of the decision.<sup>1335</sup> Persons with disabilities can take the oath in their house or via teleconference.<sup>1336</sup> If the oath is not taken during this period, the decision is revoked.<sup>1337</sup>

The procedure remains extremely slow. As noted by the Council of Europe's Commissioner for Human Rights, '[t]he naturalisation procedure is reportedly very lengthy, lasting in average 1,494 days due to a considerable backlog pending since 2010'.<sup>1338</sup> In January 2020, the issue of delays in the naturalisation procedure has been brought up before the Parliament through a parliamentary question submitted by the main opposition party.<sup>1339</sup>

According to the official statistics of the Ministry of Interior, during 2022, 3,150 third-country nationals were granted citizenship by naturalisation.<sup>1340</sup> It is noted that this number is not limited to beneficiaries of international protection, since it includes all third-country nationals. Furthermore, 1,726 applications for citizenship by naturalisation were rejected, while 28 citizenships were revoked. The Ministry of Interior did not provide data for the year 2023, nor did it reply to GCR's request regarding data for naturalisation.<sup>1341</sup>

## 5. Cessation and review of protection status

### Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure?  Yes  No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure?  Yes  No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  Yes  With difficulty  No

Cessation of international protection is regulated by Articles 10 and 15 of Asylum Code.

A third-country national or stateless person ceases to be a refugee if they:<sup>1342</sup>

- (a) Voluntarily re-avail themselves of the protection of the country of origin;
- (b) Voluntarily re-acquire the nationality they had previously lost;
- (c) Have obtained a new nationality and benefit from that country's protection;
- (d) Have voluntarily re-established themselves in the country they had fled or outside of which they had resided for fear of persecution;
- (e) May no longer deny the protection of the country of origin where the conditions leading to their recognition as a refugee have ceased to exist.
- (f) in the case of a stateless person, are able to return to the country of former habitual residence because the circumstances which led to their qualification as a refugee have ceased to exist.

<sup>1334</sup> Article 8 Citizenship Code in conjunction with the Ministerial Decision 34226/06.05.2019, Gov. Gazette B' 1603/10.05.2019.

<sup>1335</sup> Article 9(1) Citizenship Code.

<sup>1336</sup> Article 9(5) Citizenship Code.

<sup>1337</sup> Article 9(1) Citizenship Code.

<sup>1338</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, available at: <https://bit.ly/2Opvm05>, para 74.

<sup>1339</sup> Parliamentary Question, *Delays in the naturalization procedure for adults and second-generation children*, 7 January 2020, available in Greek at: <https://bit.ly/2wGB6Q9>.

<sup>1340</sup> General Secretariat for Citizenship, Central Citizenship Directorate, *Statistics and IIS management Department, Acquisitions of Greek Citizenship by category and Regional Citizenship Directorates in 2019*, posted in 19/11/200, available at <https://bit.ly/3tEXNNd>.

<sup>1341</sup> Ministry of Interior, General Secretariat of Citizenship, *Observations on the Statistics of the year 2022*, available in Greek at: <https://bit.ly/3y3uM4D>.

<sup>1342</sup> Article 10(1) Asylum Code.

With regard to the provisions of article (10)(1)(e) and (f), the change of circumstances must be substantial and durable.<sup>1343</sup> Also, the aforementioned provisions shall not apply to a refugee who is in a position to invoke compelling reasons arising from previous persecution to refuse the protection afforded to him/her by the country of origin or, in case of a stateless person, by the country of his/her former habitual residence.<sup>1344</sup>

Furthermore, a third-country national or stateless person shall cease to be entitled to subsidiary protection when the circumstances which led to the recognition of their status have ceased to exist or when those circumstances have changed to such an extent that the protection granted is no longer necessary.<sup>1345</sup> In this context, it is examined whether the change of circumstances is of such a substantial and non-temporary nature that the beneficiary of subsidiary protection no longer faces a real risk of suffering serious harm.<sup>1346</sup> However, the cessation shall not apply to a beneficiary of subsidiary protection who is in a position to invoke compelling reasons arising from a previous serious harm to refuse the protection afforded to him by his country of nationality or, in the case of a stateless person, by his country of former habitual residence.<sup>1347</sup>

Where cessation proceedings are initiated, the beneficiary is informed at least 15 days before the review of the criteria for international protection and may submit their views on why protection should not be withdrawn.<sup>1348</sup> This provision is always respected by the Asylum Service. However, according to GCR knowledge, the Headquarters of the Hellenic Police,<sup>1349</sup> does not apply this provision in practice. It does not give the beneficiaries the right to a prior hearing either in written or oral form. The beneficiary is only notified of the cessation decision. In case of negative decisions of 1<sup>st</sup> instance issued either by the Asylum Service or the Headquarters of the Hellenic Police, the beneficiaries of international protection have the right to lodge an appeal before the Appeals Authority within thirty days from the service of the negative decision. However, according to the above, the beneficiaries of international protection for whom the competent authority is the Headquarters of the Hellenic Police, in practice are deprived of a degree jurisdiction, since they are never heard at 1<sup>st</sup> instance. As these beneficiaries do not have an Asylum Service case number, but instead a Police Headquarters file number, they have to wait months until their case is given an asylum service case number so that their appeal can be examined by the Appeals Authority.

In 2023, GCR observed a number of cessation decisions concerning beneficiaries of the so-called “old procedure”. Beneficiaries whose countries of origin were included in the list of safe countries of origin by Joint Ministerial Decisions were served with decisions of a few paragraphs long without an individualised assessment, citing only the Joint Ministerial Decision as reasoning.

In the meantime, all beneficiaries of international protection are provided, either by the Asylum Service or the Headquarters of the Hellenic Police, with a certificate proving they have filed an appeal, which, however, does not give them access to the labour market, health care, or social assistance system. In fact, it only offers them protection from detention.

Where the person appeals the decision, contrary to the [Asylum Procedure](#), the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases.<sup>1350</sup>

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1343 Article 10(2) Asylum Code.

1344 Article 10(3) Asylum Code.

1345 Article 15(1) Asylum Code.

1346 Article 15(2) Asylum Code.

1347 Article 15(3) Asylum Code.

1348 Article 96 (2) Asylum Code

1349 The Headquarters of the Hellenic Police is competent for beneficiaries of international protection who applied for international protection before the start of Asylum Service’s operation.

1350 Article 102(3) Asylum Code.

## 6. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure?  Yes  No
2. Does the law provide for an appeal against the withdrawal decision?  Yes  No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  
 Yes  With difficulty  No

Withdrawal or non-renewal of **refugee status** is provided under Article 13 of the Asylum Code, where the person:

- (a) Ceases to be a refugee according to Article 10 of the Asylum Code
- (b) Should have been excluded from refugee status according to Article 11 Asylum Code;
- (c) The use of false or withheld information, including the use of false documents, was decisive in the grant of refugee status;
- (d) Is reasonably considered to represent a threat to national security;<sup>1351</sup> or
- (e) Constitutes a threat to society following a final conviction for a particularly serious crime.

Without prejudice to the obligation of the refugee to disclose any relevant information and to produce any relevant document available to him/her, in accordance with para. 1 of Article 3 of the Code, the determining authority shall demonstrate on an individual basis that the person concerned has ceased to be a refugee or has never been a refugee.<sup>1352</sup>

Under Article 18 of the Asylum Code, **subsidiary protection** may be withdrawn in case of:

- (a) cessation under Article 15 of the Asylum Code;
- (b) a beneficiary should have been excluded from subsidiary protection status according to Article 16(1) and (2) of the Asylum Code;
- (c) it is established that the person has provided false information, or omitted information, decisive to the grant of protection.

In case of withdrawals, the beneficiaries of international protection:<sup>1353</sup>

- a) are informed in writing by the competent authority at least fifteen (15) working days before the re-examination of his/her international protection, as well as for the reasons of the re-examination,
- b) are entitled to submit a written statement to the competent authority, invoking the reasons why he or she considers that the status granted should not be withdrawn.

It is noted that in case of withdrawal, individuals have the right to submit an administrative appeal before the Appeals Committee within 30 days from the service of the decision,<sup>1354</sup> and in case of rejection, they may lodge an onward Application for Annulment before the competent Administrative Court within 30 days.<sup>1355</sup> Moreover, according to article 97(2) and 99(4) of the Asylum Code, if an appeal is submitted against a decision of revocation, the residence permit is returned to the appellant.

In October 2020, a recognised refugee from Senegal since 2014 (victim of female genital mutilation, forced marriage and sexual violence), submitted an application for the renewal of her residence permit and her three children before the Headquarters of the Hellenic Police. A year later, in November 2021, their renewal application was rejected based on the applicable at that time JMD 778/20.01.2021<sup>1356</sup> pursuant to which Senegal was included in the list of safe countries of origin, without any individualised

<sup>1351</sup> The Asylum Service issued a Circular on 14 February 2022, concerning the cases where committing a serious crime is a ground for withdrawal or non-renewal of international protection status. See Asylum Service, *Circular, prot. no. 87206*, 14 February 2022, available in Greek at: <https://tinyurl.com/2p8yxa2u>, pp. 14 - 15.

<sup>1352</sup> Article 13(2) Asylum Code.

<sup>1353</sup> Article 96(2) Asylum Code.

<sup>1354</sup> Article 97(1)(a) Asylum Code.

<sup>1355</sup> Article 115 Asylum Code.

<sup>1356</sup> JMD 778/20.01.2021, Gov. Gazette B' 317/29.01.2021.

assessment and prior hearing. In December 2022, their appeal, submitted in December 2021, was examined by the 1<sup>st</sup> Appeals Committee. In March 2023, their appeal was rejected and their refugee status was revoked.<sup>1357</sup> During 2021-2023 the refugee and her children had no access to the labour market, social security and healthcare, since they only hold a certificate that they had lodged an appeal against their revocation decision. In June 2023, following the negative decision, they lodged an Application for Annulment before the Administrative Court of Athens, which is going to be examined on June 2023.

Contrary to the above, in a similar case of a recognised refugee from Senegal, since 2016 (victim of forced marriage and sexual violence), the outcome was different. The refugee submitted an application for the renewal of her residence permit and her two children before the Headquarters of the Hellenic Police. In September 2022, their renewal application was rejected based on the applicable law at that time JMD 78391/10.02.2022,<sup>1358</sup> pursuant to which Senegal was included in the list of safe countries of origin, without any individualised assessment and prior hearing. In September 2023, their appeal, submitted in November 2022, was examined by the 13<sup>rd</sup> Appeals Committee.<sup>1359</sup> In October 2023, a positive decision on their appeal was issued and their residence permits were renewed. The decision of the 13<sup>th</sup> Committee had no retroactive effect and left a one-year-gap in her residence permit, not allowing the refugee to apply for the Greek citizenship through the naturalisation procedure since her stay in the country is not considered legal and permanent for the years 2022-2023. During these years, the refugee and her children had no access to the labour market, social security and healthcare.

Furthermore, revocation of international protection status can take place in cases of national security concerns, as analysed above. In a case of a Syrian refugee, who had been granted refugee status in 2017 due to his political beliefs imputed to him as a conscientious objector, his status was revoked on the grounds of national security. In August 2022, i.e., after almost six (6) years of legally residing in Greece, the applicant received a summons following the issuance of a classified document, on the basis of which his asylum status might be revoked because he was considered to be "a danger to the national security of the country" (art. 13 para. 4a, Law 4939/2022). In September 2022, decision of the Returns and Revocations Directorate, Revocations and Exclusions Department of the Asylum Service, was served to the refugee, pursuant to which his international protection status was revoked, his residence permit and travel document recalled, and he was ordered to return to Syria. In October 2022, the refugee filed an appeal before the Appeals Authority. However, his appeal was rejected in March 2023 by the 9<sup>th</sup> Appeal Committee,<sup>1360</sup> despite the fact that at no stage of the administrative procedure, had he been informed of the substantive content of the reasons for the revocation of his refugee status which deprived him of the effective exercise of the right to an effective remedy, hearing, and defense, as well as the procedural guarantees provided in Article 23(1) of Directive 2013/32/EU. The refugee filed an Application for Annulment and Suspension before the Administrative Court of Athens. As his application was rejected, he lodged a request for interim measure (Rule 39) before the ECtHR. Interim measures were granted by the Court in December 2023 and the application was lodged in February 2024.

In an essentially identical case, i.e., in the case of revocation of the refugee status of a Syrian national by virtue of classified documents, the 3<sup>rd</sup> Appeals Committee issued a decision, annulling the revocation decision of the Regional Asylum Office of Alimos, after first disclosing the essential content of the file to the applicant through the questions posed to him during the oral hearing, in compliance with national and EU law and the relevant case law of CJEU (C-300/11, ZZ, 4 June 2013), and concluding that access to the substantive content of the administrative file is essential for the applicant's right to defense, which is in turn a prerequisite for the exercise of an effective remedy.<sup>1361</sup>

Moreover, in an identical case of revocation of the refugee status of a Syrian national pursuant to classified documents, the 12<sup>th</sup> Appeals Committee issued a decision annulling the revocation decision of the Office of the Returns and Revocations Directorate, Revocations and Exclusions Department of the Asylum Service. In particular the Appeals Committee found that there were no national security reasons, taking

<sup>1357</sup> Decision 180064/28.03.2023 of the 1<sup>st</sup> Independent Appeals Committee.

<sup>1358</sup> JMD 78391/10.02.2022, Gov. Gazette B' 667/15-02-2022.

<sup>1359</sup> Decision no. IP/159138/02.10.2023 of the 13<sup>rd</sup> Independent Appeals Committee.

<sup>1360</sup> Decision no. 186250/30.03.2023 of the 9<sup>th</sup> Independent Appeals Committee.

<sup>1361</sup> Decision no. 403061/11.07.2022 of the 3<sup>rd</sup> Independent Appeals Committee.



into account, *inter alia*, that the Committee itself never had full access to the classified documents/information itself despite having requested it. Instead, the Committee had access only to a document from the Asylum Service, which according to the Committee, was not sufficient in order for the refugee to be considered danger for the national security.<sup>1362</sup>

The procedure described in [Cessation](#) is applicable to withdrawal cases.

On 12 April 2021, the Asylum Service issued a new circular providing clarifications on the procedure regarding the provision of an opinion on the grounds of exclusion and revocation of the status of international protection prescribed by article 91 IPA, as well as the renewal of residence permits (art. 2 IPA).<sup>1363</sup> Moreover, on 14 February 2022, the Asylum Service issued a new circular providing clarification on the commission of a serious crime and its consequences for granting and withdrawal of international protection status.<sup>1364</sup>

According to a document presented by the Ministry of Migration and Asylum during parliamentary control on 17 February 2022, the Asylum Service revoked 19 international protection statuses in 2021, out of which 17 concerned refugee status and 2 were subsidiary protection statuses. In 14 out of 19 cases, the international protection status was revoked due to public security reasons.<sup>1365</sup> Six revocation decisions were issued by the Headquarters of the Hellenic Police (“old procedure”).<sup>1366</sup> Only 17 decisions of revocation of international protection statuses under the “old procedure” were issued in 2022 according to the Headquarters of the Hellenic Police.<sup>1367</sup> However, for 2022 data was not provided by the Asylum Service that is competent for the largest number of beneficiaries of international protection residing in Greece.

Data on withdrawal of protection status decisions have since not been provided by the MoMA, even though GCR has requested it on a yearly basis. Instead, following the latest such request sent by GCR in January 2024, the MoMA replied by referring GCR to the Ministry’s website “and in particular at the link: <https://migration.gov.gr/statistika/> [where] the monthly newsletters are published, alongside relevant annexes, which include summary and detailed statistical data on the work of the First Reception Service, the Asylum Service and the Appeals Authority [...]”.<sup>1368</sup> Yet, a closer look at the public sources referred by the MoMA highlights that the specific data is not available.

However, in response to GCR’s request, the Headquarters of the Hellenic Police provided, among others, data on revocation decisions. In particular, during 2023, were issued 10 decisions for the revocation of refugee status while no decision was issued for the revocation of subsidiary protection status.<sup>1369</sup>

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<sup>1362</sup> Decision no. IP/14902/09.01.2024 of the 12<sup>th</sup> Independent Appeals Committee.

<sup>1363</sup> MoMA, 3716/12-4-21, *Διευκρινίσεις – ορισμός διαδικασίας σχετικά με την παροχή γνώμης περί συνδρομής ή μη συνδρομής λόγων αποκλεισμού, την ανάκληση καθεστώτος διεθνούς προστασίας του αρ. 91 ν.4636/2019, καθώς και την ανανέωση των αδειών διαμονής του αρ. 24 ν.4636/2019, μετά τη θέση σε ισχύ του ΠΔ 106/2020*, available in Greek at: <https://bit.ly/3niHX8J>.

<sup>1364</sup> MoMA, 87206/14.02.2022, *Διάπραξη σοβαρού εγκλήματος και οι συνέπειές της στη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας*, 14 February 2022, available in Greek at: <https://bit.ly/3leaaYQ>.

<sup>1365</sup> MoMA, 97157/17.2.2022, *Θ Έ Μ Α: Κοινοβουλευτικός Έλεγχος ΣΧΕΤΙΚΑ: Η υπ’ αριθμ. Πρωτ. 2608/24-1-2022 Ερώτηση*, 17 February 2022, available in Greek: <https://bit.ly/3D4TKPw>.

<sup>1366</sup> Information provided by the Headquarters of the Hellenic Police, 25 February 2022.

<sup>1367</sup> Information provided by the Headquarters of the Hellenic Police, 13 February 2023.

<sup>1368</sup> MoMA, *Analysis and Studies Office, Reply to GCR’s request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project*, received on 14 February 2024 (protocol number: 55259).

<sup>1369</sup> Reply of Headquarters of the Hellenic Police, *Statistics – AIDA REPORT on GREECE 2020*, prot. no.: 1016/125-300109/16.02.2024.

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  Yes  No
  - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?  Yes  No
  - ❖ If yes, what is the time limit?

After the period of 3 months, the law further requires more documents (social security, house contract, sufficient income)
3. Does the law set a minimum income requirement?  Yes  No

According to PD 131/2006 transposing the Family Reunification Directive, as supplemented by PD 167/2008 and amended by PD 113/2013, only recognised **refugees** have the right to apply for reunification with family members who are third-country nationals residing in their home country or in another country outside the EU.

As per Article 13 PD 131/2006, “family members” include:

- (a) Spouses;
- (b) Unmarried minor children;
- (c) Unmarried adult children with serious health problems which render them incapable to support themselves;
- (d) Parents, where the beneficiary solemnly declares that he or she has been living with them and taking care of them before leaving his or her country of origin, and that they no longer have other family members to care for and support them;
- (e) Unmarried partners with whom the applicant has a stable relationship, which is proven mainly by the existence of a child or previous cohabitation, or any other appropriate means of proof.
- (f) If the recognised refugee is an unaccompanied minor, he/she has the right to be reunited with his/her parents or his/her legal guardian or any other member of the family, where the refugee has no relatives in the direct ascending line or such relatives cannot be traced.

If a recognised refugee requests reunification with his or her spouse and/or dependent children, within three months from the service of the decision granting him or her refugee status, the documents required with the application are:<sup>1370</sup>

- (a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek diplomatic authority, proving the family bond and/or the age of family members; and
- (b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

This is not the case when it comes to travel documents, as the refugees who cannot objectively provide certified copies of travel documents of their family members, are not given alternative solutions (e.g., laissez-passer).<sup>1371</sup> Nevertheless, according to the response of the Ministry of Foreign Affairs to GCR’s request in January 2024, “in 2023, two temporary travel documents were provided by Greek Consular

<sup>1370</sup> Article 14(1) PD 131/2006.

<sup>1371</sup> Decisions 59/2018 and 861/2022 of the Administrative Court of First Instance of Athens. See AIDA, *Country Report: Greece, 2022 Update*, June 2023, available at: <https://bit.ly/3PUOVk9>.

*Authority and in one case three temporary travel documents were provided (Emergency Travel Documents (ETD) of the Red Cross to family members for family reunification”*.<sup>1372</sup>

As far as the Emergency Travel Documents of the International Committee of the Red Cross, are concerned, doubts are raised as to the reliability of the data provided. In particular, ETDs cannot be issued without a prior positive family reunification decision, while pursuant to P.D. 131/2006, copies of travel documents must be submitted as a prerequisite for the issuance of positive family reunification decision. According to GCR's knowledge, there is only one positive family reunification case to date, issued in November 2023 by the Asylum Service, where the commitment letter of the Red Cross for the issuance of three ETDs has been accepted. In this particular case, the process for the issuance of ETDs has started but they have not been issued yet.

On the other hand, if the refugee is an adult and the application refers to their parents and/or the application is not filed within three months from recognition, apart from the documents mentioned above, further documentation is needed:<sup>1373</sup>

- (a) Full Social Security Certificate, i.e., certificate from a public social security institution, proving the applicant's full social security coverage; or
- (b) Tax declaration proving the applicant's fixed, regular and adequate annual personal income, which is not provided by the Greek social welfare system, and which amounts to no less than the annual income of an unskilled worker— plus 20% for the spouse and 15% for each parent and child with which he or she wishes to be reunited;
- (c) A certified contract for the purchase of a residence, or a residence lease contract, or other certified document proving that the applicant has sufficient accommodation to meet the accommodation needs of his or her family.

The Asylum Service has interpreted this article of P.D. 131/2006 in a pro-refugee light and requires either, as opposed to both, a full social security certificate or a tax declaration proving sufficient income. On the contrary, the Aliens Police Directorate, i.e., in cases of recognised applicants for whom the competent authority is the Headquarters of the Hellenic Police, requires both certificates (social security certificate and tax declaration) after the three months of recognition. Another difference is that the Asylum Service starts counting the three-month period from the service of the recognition decision whereas, for the Aliens Police Directorate, this deadline starts from the issuance of this decision.

The abovementioned additional documents are not required in case of an unaccompanied child recognised as refugee, applying for family reunification after the three-month period after recognition.<sup>1374</sup> The Asylum Service has decided that unaccompanied or separated children who are recognised refugees, under the age of 15 years old, and have applied for family reunification do not require a family reunification interview. Instead, a written memo has to be submitted before the Asylum Unit for Beneficiaries of International Protection (AUIPB). Despite the fact that P.D. 131/2006 does not include siblings as family members, the AUIPB, in cases of unaccompanied minors, is asking from the Director of the Asylum Service an *ad hoc* exception in order to issue a positive family reunification decision also for the refugee's siblings.

If the application for family reunification is rejected, applicants have 10 days to submit an appeal before the competent administrative authorities.<sup>1375</sup> It is worth mentioning that there is no provision of free legal aid for this appeal. In case the appeal is rejected, applicants have the right to lodge an application for annulment before the competent Administrative Court of First Instance within 60 days from the service of

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<sup>1372</sup> Reply of Ministry of Foreign Affairs, H2 Directorate of the Ministry of Foreign Affairs to GCR's *request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project*, prot. no. Α.Π.Φ 171/ΣΗΔΕ 11295, 23 February 2024.

<sup>1373</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>1374</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>1375</sup> Article 12 (1) P.D.131/2006. For recognised refugees for whom the Asylum Service is the competent authority for the submission of their family reunification applications, their appeals are submitted before the Head of the Regional Asylum Office. For recognised refugees for whom the Headquarters of the Hellenic Police is the competent authority for the submission of their family reunification applications, their appeals are submitted before the Head of the Aliens and Border Protection Department.

the negative decision.<sup>1376</sup> If the family members enter Greece, they must, within a month of their arrival, submit in person an application for the issuance of a residence permit as refugee family members.<sup>1377</sup>

Lengthy procedures, administrative obstacles as regards the certification of required documents and the issuance of visas makes family reunification an extremely lengthy and onerous procedure, as illustrated by the indicative cases mentioned below.

Case of recognised refugee from Eritrea: After 12 years and 2 Court decisions (ΔΠΑ 861/2022 & 59/2018), in May 2023, the family reunification decision was issued by the Hellenic Police Headquarters. The family was reunited in December 2023.<sup>1378</sup>

Case of recognised refugee from DRC: After 7 years and a court decision (ΔΠΑ 493/2020), in December 2020, the family reunification decision was issued by the Hellenic Police Headquarters. The family was reunited in December 2023.

Case of recognised refugee from Sudan: In May 2023, the family reunification decision was issued. It is the only case of Sudanese nationals who, despite the internal armed conflict and the obstacles set by Greek Consulate in Cairo, managed to be reunited in December 2023.

Case of an unaccompanied minor - recognised refugee from Syria: In March 2023, the first family reunification decision of UAM was issued, including not only his parents but also his siblings, even though it is not provided for in P.D. 131/2006. The family was reunited in July 2023.

Case of recognised refugee from DRC: After 5 years the family reunification decision was issued and after 6 years, in October 2023, the family was reunited.

Three family reunification cases have been brought before the ECtHR in 2023. The first one concerns a stateless Rohingya unable to obtain travel documents (ECtHR, *Suji v. Greece*, communicated case - 13250/23). The second one concerns a case of an Afghan national, unable to obtain family reunification documents other than those issued by Taliban regime, which are not recognised by the Greek State and are not certified by the competent Greek Consulate (ECtHR, *Dotani v. Greece*, communicated case - 31077/23). The third case concerns the family reunification of a refugee from Burundi with his family members who are asylum seekers in South Africa. As a result, they cannot obtain travel documents required by law (ECtHR, *Ndikumana v. Greece* - 41855/23). All the aforementioned cases were prioritized by the Court as pilot cases of exceptional importance and the first two have been communicated to the Greek Government.

Furthermore, a damages action (*αγωγή αποζημίωσης*) for a recognised refugee from DRC regarding the delay of the enforcement of the family reunification decision for more than 6 years from its issuance was submitted before the Administrative Court of Athens in December 2023, which is still pending.

A Joint Ministerial Decision was issued in August 2018 on the requirements regarding the issuance of visas for family members in the context of family reunification with refugees.<sup>1379</sup> Among other provisions, this Decision sets out a DNA test procedure in order to prove family links and foresees interviews of the family members by the competent Greek Consulate. The entire procedure is described in detail in the relevant handbook of the Ministry of Foreign Affairs.<sup>1380</sup> According to the Ministerial Decision, the refugee must pay €120 per DNA sample but until today the electronic fee (e-paravolo) is not available and thus the payment of the fee is not possible. In addition, the DNA kit must be sent from the Forensic Science Department (*Διεύθυνση Εγκληματολογικών Ερευνών*) that will conduct the test, to the Greek Consulate in the diplomatic post of the Ministry of Foreign Affairs. This is a procedure which can be very lengthy. According to GCR's experience, even an urgent DNA test may last up to three months.

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<sup>1376</sup> Article 46 (1) P.D. 18/1989.

<sup>1377</sup> Article 15 (2) P.D. 131/2006.

<sup>1378</sup> See previous updates of the AIDA, Country Report: Greece, available at: <https://bit.ly/45vXAir>.

<sup>1379</sup> JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.

<sup>1380</sup> Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, 123-127.

In response to GCR's request to the Ministry of Foreign Affairs in January 2024, the latter replied that "In 2023, in only one case a DNA test was carried out to prove the family link in a family reunification case in 2022. It should be noted that it is not always possible to carry out a DNA test to prove the family link."<sup>1381</sup>

The family reunification procedure following the issuance of the family reunification decision is set out briefly and schematically in the table below.

POSITIVE FR DECISION	NEGATIVE FR DECISION
The FR file is sent by the Asylum Service or Hellenic Police to the Greek MFA (G04 Department for the Asylum Service/St3 for the Hellenic Police)	10 days to submit an appeal before the competent administrative authorities (art.12 par.2 P.D. 131/2006-5&18 of the Directive) - No free legal aid
After approximately 2-3 months the FR file is sent to the competent Greek Consulate	In case the appeal is rejected - Application for Annulment before the competent Administrative Court of First Instance within 60 days from the deliverance decision (art 46 P.D. 18/89).
The competent Greek Consulate conducts an interview with the refugee family members and requires again all the documents as if the FR procedure in Greece had never existed. In addition to this, fees, penal record, medical certificates, travel insurance are also required.	Positive Court Decision - the Authority that issued the negative Decision, after its annulment is reexamining the case and has the right to issue once more a negative decision (as it happened after the issuance of court decision ΔΠΑ 59/2018 that resulted in the issuance of ΔΠΑ 861/ 2022).
The Greek Consulate issues FR Visas or negative FR visa decisions that can be appealed before the First Instance Administrative Court of Athens.	

Refugee family members who enter Greece after a successful family reunification cannot apply for the renewal of their residence permit if they reach the age of majority (18).<sup>1382</sup> P.D. 131/2006 provides for a special one-year residence permit until they reach the age of 21.<sup>1383</sup> However, they still need a valid residence permit in order to apply for the said one-year residence permit before the competent Decentralised Administration of their place of residence.

It is noted that, during 2023, Palestinian and Sudanese family members of recognised refugees in Greece are unable to obtain family reunification documents due to the armed conflict and no alternative solution is provided to be reunited in Greece. Yemeni refugees' family members are also unable to satisfy the

<sup>1381</sup> Reply of Ministry of Foreign Affairs, H2 Directorate of the Ministry of Foreign Affairs to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, prot. no. Α.Π.Φ 1711/ΣΗΔΕ 11295, 23 February 2024.

<sup>1382</sup> Article 1 Asylum Code.

<sup>1383</sup> Article 11 (1) P.D. 131/2006.

conditions set by law regarding family reunification procedure because they cannot reach the competent Greek Consulate in Riyadh due to armed conflict between the two countries.

In addition, refugees' family members face many obstacles for the certification of the required family reunification documents and the issuance of visas by the Greek Consulates, which set their own requirements, impossible sometimes to be met. Based on GCR's experience:

1. The Greek Consulate in Cairo requires recent family certificates for issuance of visas of Palestinian and Sudanese refugees' family members, despite JMD provisions and armed conflict in Gaza and Sudan and refuses certifying copies of travel documents.
2. The Greek Consulate in Kinshasa requires additional documentation for the issuance of visas in breach of JMD and delays excessively (years) scheduling appointments for certification of documents and issuance of visas.
3. The Greek Consulate in Islamabad refuses certifying family reunification documents for Pakistani refugees' family members and for Afghan nationals (non-recognition of Taliban regime).
4. The Greek Consulate in Abuja set unrealistic requirements with a five-stage-indefinite-duration-procedure for the certification of family reunification documents. The certification procedure is impossible for all nationals of Cameroon since family reunification documents must be submitted to the Greek Consulate within a month of their issuance.

According to the H2 Directorate of the Ministry of Foreign Affairs *“As for the possibility of certifying the required family reunification supporting documents by the Honorary Consulates, in the process of family reunification, we cite article 307 of the Regulation of the Ministry of Foreign Affairs (L. 4781/2021 Gov. Gazette 31/A/28.2.2021): “The Honorary Consulates perform the same tasks as the Consulates except for the issuance of passports and visas”. In particular, and for the completeness of your information, it is noted that exception to certification by the Honorary Consulates is made for public documents issued by Ethiopia, Algeria, Afghanistan, Ghana, Eritrea, Indonesia, Iraq, Kenya, Democratic Republic of Congo, Libya, Mali, Bangladesh, Nigeria, Pakistan, Senegal, Sudan, Sri Lanka, Philippines and Tunisia, the certification of which can be done solely through the competent Greek Consulates. (for more information, you may visit the link: <http://www.mfa.gr/kep-politon-kai-apodimon-ellinon.html>). We add, however, that in several of the aforementioned countries, there are no Honorary Consulates anyway, while in other cases, such as those of the Honorary Consulates in Karachi and Lahore, Pakistan (which are two hours by airplane and four hours by road respectively from our Embassy in Islamabad), which do not process requests for the certification of foreign certificates, no difficulty has been observed by the interested parties of moving to the Consulate, and therefore, the Honorary Consuls are not involved in the process of receiving and sending relevant documents to the Consulates”*.<sup>1384</sup>

Nevertheless, certain good practices followed by Greek Consulates should be mentioned:

1. The Greek Consulate in Nairobi certifies family reunification documents and issues visas in due time. The same applies to Greek Consulate in Istanbul but only for Turkish nationals.
2. The Greek Consulate in Jerusalem certified and even translated family reunification documents and was the only Greek Consulate accepting documents by post to facilitate Palestinian refugees' family members trapped in Gaza Strip.
3. The Honorary Greek Consulate in Luanda certifies family reunification documents.

According to the data provided by the Ministry of Foreign Affairs - G04 Department, during 2023, out of 206 applications for issuance of family reunification visas, 194 were granted.

However, data was not provided by the Ministry of Foreign Affairs concerning:

- (a) the number of family members of recognized refugees who arrived in Greece during the year 2023

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<sup>1384</sup> Reply of Ministry of Foreign Affairs, H2 Directorate of the Ministry of Foreign Affairs to GCR's request for information for the preparation of the updated Annual Report on Greece for 2023 in the framework of the Asylum Information Database (AIDA) project, prot. no. Α.Π.Φ 171/ΣΗΔΕ 11295, 23 February 2024.

- (b) the reason(s) for the delays observed in practice with regard to the granting of visas,
- (c) the number of interviews conducted by the competent diplomatic authority to refugees' family members in 2023<sup>1385</sup>
- (d) the number of family reunification cases, where the Consulates requested the submission of recent documents proving family link, for the issuance of family reunification visas, apart from the required documents provided for in Article 5 of JMD 47094/2018 (Gov. Gazette B 3678/28.08.18).

## 2. Status and rights of family members

According to Article 22 and Article 23 Asylum Code, family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit, which must have the same duration as that of the beneficiary.

However, if the family has been formed after entry into Greece and within Greece, the law requires the spouse to hold a valid residence permit at the time of entry into marriage in order to obtain a family member residence permit.<sup>1386</sup> This requirement is difficult to meet in practice and may undermine the right to family life, since one must already have a residence permit in order to qualify for a residence permit as a family member of a refugee. The new Asylum Code allowed also partners with cohabitation agreements to obtain residence permits as refugee family members.<sup>1387</sup> The Asylum Code as well as previous legislation requires also the family to be formed within Greek territory. This means that beneficiaries' children that were born after their parent entered Greece but outside of Greece could not obtain a residence permit as refugee family member. Moreover, after the implementation of the previous IPA and with the new Asylum Code, underage beneficiaries of international protection can no longer apply for the issuance of a residence permit for their non-refugee parent<sup>1388</sup>. The refugee family members that were granted a refugee family member residence permit cannot be granted a travel document of the Geneva Convention of 1951. This derives from the fact that Article 24 Asylum Code does not include refugee family members. In practice this provision has been applied only to spouses that are required to keep the travel document/passport of their country of origin.

## C. Movement and mobility

### 1. Freedom of movement

According to Article 32 Asylum Code, beneficiaries of international protection enjoy the right to free movement under the same conditions as other legally residing third-country nationals. No difference in treatment is reported between different international protection beneficiaries.

### 2. Travel documents

Article 24 Asylum Code and Joint Ministerial Decision 10302/2020,<sup>1389</sup> regulate the procedures for the issuance of travel documents for beneficiaries of international protection.

<sup>1385</sup> In response to this question, the Ministry of Foreign Affairs simply replied that the procedure for issuing family reunification visas is that set out in JMD 47094/28.08.2018 (B' 3678) and Ministerial Decision Φ.3497.3/ΑΠ24245/2014 (B' 1820), which provide for in-person interviews.

<sup>1386</sup> Article 23(4) Asylum Code.

<sup>1387</sup> *Ibid.*

<sup>1388</sup> E. Kagiou, & C. Katsigianni, "The issue of the issuance of residence permits to family members of beneficiaries of international protection (Law 4636/2019)", *Administrative Trial* (Dioikitiki Diki), Sakkoulas, Athens – Thessaloniki, Vol. 2/2020, June 2020, p. 243-248.

<sup>1389</sup> Joint Ministerial Decision 10302/2020, Gov. Gazette B; 2036/30.05.2020, available in Greek at: <https://bit.ly/2P71hc8>.

Recognised **refugees**, upon a request submitted to the competent authority,<sup>1390</sup> are entitled to a travel document (*titre de voyage*),<sup>1391</sup> in accordance with the model set out in Annex to the 1951 Refugee Convention. This travel document allows beneficiaries of refugee status to travel abroad, except their country of origin, unless compelling reasons of national security or public order exist or where the person concerned is subject of proceedings for suspension, exclusion, revocation or cancellation of the status granted.<sup>1392</sup> The abovementioned travel document is issued by the competent Passport Directorate of the Hellenic Police,<sup>1393</sup> subject to a fee of approximately 84 € for the adults and 73 € for the minors. These travel documents are valid for 5 years for adults, as well as for children over 14 years old, and 3 years for children under 14 years old and can be renewed.<sup>1394</sup>

The same applies to beneficiaries of **subsidiary protection or family members of beneficiaries of international protection**, if they are unable to obtain a national passport, unless compelling reasons of national security or public order exist.<sup>1395</sup> In practice, beneficiaries of subsidiary protection must submit to the Greek authorities a verification from the diplomatic authorities of their country of origin, certifying their inability to obtain a national passport. This prerequisite is extremely onerous, as beneficiaries of subsidiary protection may also fear persecution or ill-treatment from their country of origin. Furthermore, the issuance of this verification is at the discretion of the diplomatic authorities of their country of origin and depends on the policy of each country. The travel documents issued for beneficiaries of subsidiary protection are valid for 3 years and can be renewed.<sup>1396</sup>

JMD 10302/2020 provides that the Passport Directorates of the Hellenic Police are the only competent authority for the issuance of travel documents.<sup>1397</sup> In practice, after their recognition, beneficiaries of international protection must scan all the required documents (including the electronic administrative fee) and send them by email to the competent Alien's Directorate in order to book an appointment for the submission of their applications in person. Travel documents are issued by the Passport Offices of the Hellenic Police. Beneficiaries of international protection are required to book an appointment, similar to the one for their residence permit (ADET). In case of travel documents, however, the payment of a fee is a prerequisite to obtaining such an appointment.<sup>1398</sup> After the travel document is issued, they must regularly check the website of the Asylum Service for their scheduled deliverance appointment.<sup>1399</sup> If they miss that appointment, they must book another one through the electronic platform of the Ministry of Migration and Asylum, which may be scheduled months after the missed one. Travel documents may only be collected at the RAOs of Attica, Thessaloniki and Crete. This means that beneficiaries of international protection on the islands have to travel either to Athens or to Thessaloniki to collect their document.<sup>1400</sup>

The same Ministerial Decision regulates the issuance of travel documents for children accompanied by one of their parents who de facto exercises on his/her own the sole custody of the child, but does not possess documents establishing the sole custody of the child (e.g., divorce, court order on sole custody, death certificate). More precisely travel documents for children can be issued upon submission to the competent Passport Office of a declaration on oath before the District Court or a Notary<sup>1401</sup> when the following conditions are met:

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<sup>1390</sup> The territorially competent Aliens Police Directorate of the Hellenic Police is responsible for the submission of travel document applications and service of travel documents to the recognised refugees who have applied for international protection before the start of Asylum Service's operation. The territorially competent Passport Offices of the Hellenic Police are responsible for the submission of travel document applications of the recognised refugees who have applied/apply for international protection after the operation of the Asylum Service. However, the competent authority for the service of these travel documents is the Asylum Service.

<sup>1391</sup> Article 24 Asylum Code.

<sup>1392</sup> Article 24(1) Asylum Code.

<sup>1393</sup> Article 24(2) Asylum Code.

<sup>1394</sup> Article 6(1) JMD 10302/2020 (in force since 30.05.2020).

<sup>1395</sup> Article 24(3) Asylum Code.

<sup>1396</sup> Article 6(2) JMD 10302/2020.

<sup>1397</sup> Article 3 JMD 10302.

<sup>1398</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3xsmCTB>, p. 18.

<sup>1399</sup> MoMA, *Travel documents*, available at: <https://bit.ly/2Pd4kQe>.

<sup>1400</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C> para. 33.

<sup>1401</sup> Article 1(5) JMD 10302/2020.



- ❖ The child is granted refugee status and is present in Greece with one of his/her parent;
- ❖ this parent is also exercising the sole custody due to facts or legal acts that have occurred in the country of origin (e.g., death of a spouse, divorce), and
- ❖ this parent does not possess documents proving that he/she is exclusively exercising the sole custody.

However, Article 1(6) of JMD 10302/2020 does not apply to cases where the parent is exercising the sole custody due to facts or legal acts that have occurred in a country other than the country of their origin. In this case, if no supporting documents can be provided, travel documents for children can be granted only by a court order pursuant to which the sole custody is assigned to the single parent.<sup>1402</sup> The waiting period for the initial issuance of travel documents is not lengthy as it used to be before, as far as GCR is aware.

As regards the renewal of travel documents, beneficiaries of international protection have to follow a five-step procedure. In particular, the beneficiary: 1) submits a renewal application and a photo via email to the Asylum Service 2) sends to the Asylum Service a signed solemn declaration with a certified signature stating that he/she has not been convicted of several offences restrictively mentioned in the JMD 10302/2020 (see below) 3) the Asylum Service sends to the beneficiary's personal email the reply to his/her application, 4) the beneficiary submits supporting documents to the competent Passport Office of the Police or the Passport Office of the Aliens Directorate and 5) the beneficiary receives his/her travel document from the competent Regional Asylum Office.<sup>1403</sup>

The first step of the procedure often causes problems to beneficiaries of international protection who are technologically illiterate, as they have to fill in the application form electronically and send it correctly via their personal email. GCR observes that many beneficiaries of international protection, despite knowing how to use social media applications, do not know how to use an email properly and often do not even know if they have an email address. Thus, in many cases, beneficiaries seek assistance, often paying huge fees, in various photocopying centres in the centre of Athens or accounting offices, which, in many cases, do not send correctly said renewal applications.

The second step of this procedure is also vital for the travel document renewal procedure since “A travel document shall not be granted to a person who: a) has been convicted by final decision for forgery, forgery of certificates, embezzlement of documents, false deposition without oath or false declaration (articles 216, 217, 222 and 225 of the Criminal Code and article 22(6) L 1599/1986) where commission is related to the issuance, use, loss or theft of a passport, an identification document or any other document that may be used as a travel document or for criminal organisation, terrorist acts, abduction, slave trade, trafficking in human beings, child abduction, involuntary kidnapping, trafficking (articles 187, 187A, 322, 323, 323A, 324, 327, 351 of the Criminal Code) as well as the offences of Article 29(5), (6) and (7) and of Article 30(1) and (2) of [the Immigration Code]. The prohibition shall apply from the final convicting judgment for five years (5) as regards commission of the above misdemeanours and for ten (10) years as regards commission of a felony respectively, on condition that the sentence imposed has been commuted; b) has been the subject of a criminal charge for a felony or an offence of point (a) for the duration of proceedings...”<sup>1404</sup> The aforementioned condition also applies to the initial issuance of travel documents. During the travel document renewal procedure, beneficiaries of international protection are asked to submit a solemn declaration pursuant to which they certify that they have not committed any of the above-mentioned criminal offences. This stage is vital because beneficiaries of international protection who have been convicted of travel document-related offences cannot renew or have travel documents issued. In addition, any false statements made in the solemn declaration constitutes a criminal offence.<sup>1405</sup>

<sup>1402</sup> Articles 1(6) and 1(7) JMD 10302/2020.

<sup>1403</sup> Ministry of Migration and Asylum, *How to renew your travel documents*, available at: <https://bit.ly/3UyZTOI>.

<sup>1404</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/45y1CY1>, p. 16 see also Art. 1(2) JMD 10302/2020.

<sup>1405</sup> Article 8 L.1599/1986 “Whoever knowingly states false facts or denies or conceals the true facts with a written solemn declaration of Article 8 shall be punished with imprisonment of at least three months. If the person responsible for these acts intended to obtain pecuniary advantage harming others or intended to harm others, is punishable by imprisonment of up to 10 years.”

Decisions of RAO and AAU refusing the grant of a travel document may be appealed before the Director of the Asylum Service who takes a decision based on a recommendation of a three-member panel.<sup>1406</sup>

All renewal applications are being processed by the Asylum Unit of International Protection of Beneficiaries (*Αυτοτελές Κλιμάκιο Ασύλου Δικαιούχων Διεθνούς Προστασίας*), which is extremely understaffed, as mentioned in the letter of Director of the Asylum Service dated 16.02.2024 (prot. no. 58515) in response to an intervention by 16 Non - Governmental Organisations of the Legal Working Group.<sup>1407</sup> Specifically, according to the aforementioned letter, only two employees are in charge of processing all the travel document renewal applications in Greece.<sup>1408</sup> According to the National Register of Procedures, the travel document renewal procedure may last up to two months.<sup>1409</sup> However, according to GCR knowledge, the procedure lasts approximately four months.

Contrary to the above, the beneficiaries of international protection for whom the competent authority is the Headquarters of the Hellenic Police,<sup>1410</sup> have to appear in person before the competent Aliens Directorate for the renewal of their travel documents in order to submit their renewal application. GCR has noticed that, despite the provisions of JMD 10302/2020 for beneficiaries of subsidiary protection, according to which travel documents are valid for three years, the travel documents of beneficiaries of subsidiary protection are renewed for two years.

The Headquarters of the Hellenic Police, in response to GCR's request, provided, among others, data on the renewal and initial issuance of travel documents. In particular, during 2023, in total 20.332 travel documents were issued and renewed by the Headquarters of the Hellenic Police.<sup>1411</sup>

Moreover, according to a survey conducted by UNHCR from 01.02.2022 until 14.03.2024, 487 (48%) beneficiaries of international protection had received their travel documents, while 340 (33%) were waiting for their travel documents.<sup>1412</sup>

It must be stressed that travel documents are a prerequisite for opening a bank account in Greece, as banks do not accept ADET as valid identification documents for beneficiaries of international protection who wish to open a bank account. Possession of a travel document is also needed for access to employment, since the Unified Social Security Fund (*Ενιαίος Φορέας Κοινωνικής Ασφάλισης, ΕΦΚΑ*) does not accept ADET as a valid documentation.<sup>1413</sup>

The issue of the link between possession of travel documents and the ability to open a bank account was already highlighted in a survey conducted by UNHCR from July 2022 – June 2023 with 424 beneficiaries of international protection. 43% of those interviewed reported that they had travel documents and only 42% had bank accounts.<sup>1414</sup>

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<sup>1406</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 18 . See also Art. 4(3) JMD 10302/2020.

<sup>1407</sup> Letter of Director of the Asylum Service, *Renewal of identity documents of beneficiaries of international protection*, prot. no. 58515/16.02.2024.

<sup>1408</sup> Ibid.

<sup>1409</sup> National Register of Procedures, *Travel Documents Renewal for Beneficiaries of International Protection* available in Greek at: <https://tinyurl.com/28w6h893>.

<sup>1410</sup> Headquarters of the Hellenic Police is the competent authority for beneficiaries of international protection who have applied for international protection before the Asylum Service started its operation.

<sup>1411</sup> Reply of Headquarters of the Hellenic Police, *Statistics – AIDA REPORT on GREECE 2020*, prot. no.: 1016/125-300109, 16 February 2024.

<sup>1412</sup> UNHCR, *Greece Inter-Agency Protection Monitoring of refugees in Greece, Key Findings, 01.02.2022 – 14.03.2024*, available at: <https://bit.ly/43dZsuK>.

<sup>1413</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 17. See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/3Vy9DYJ>, p. 16.

<sup>1414</sup> UNHCR, *Key Findings: July 2022 – June 2023, Protection Monitoring of Refugees in Greece, August 2023*, available at: <https://bit.ly/4dgyE2l>.

## D. Housing

### Indicators: Housing

1. For how long are beneficiaries entitled to stay in Reception and Identification Centers (R.I.C.) or Closed Controlled Access Centers (C.C.A.C.) or Open Reception Facilities? 1 month<sup>1415</sup>
  - ❖ Number of beneficiaries staying in Reception and Identification Centers (R.I.C.) & Closed Controlled Access Centers (C.C.A.C.) is not available
2. Are there longer stay options or other specialised accommodation for vulnerable groups or young people who have recently turned 18? Not available yet<sup>1416</sup>

According to Article 29 Asylum Code beneficiaries of international protection should enjoy the same rights as Greek citizens and receive the necessary social assistance, according to the terms applicable to Greek citizens. Furthermore, according to Article 31 Asylum Code, beneficiaries of international protection have access to accommodation under the conditions and limitations applicable to third-country nationals residing legally in the country.

However, administrative and bureaucratic barriers, gaps in state-led actions aimed at addressing the particular housing challenges faced by beneficiaries of international protection, non-effective implementation of the law, and the impact of the economic crisis, coupled with the severe limitations of (social) housing policies, prevent international protection holders from enjoying their rights.

For beneficiaries of international protection, the HELIOS programme -which to this day remains the only nationwide integration programme- includes a housing component that can support people towards independent accommodation in apartments rented in their name through two initial installments aimed at contributing to the start of independent living (e.g., household equipment) and subsequent contributions to rental costs for up to a total of 12 months.<sup>1417</sup> Said programme is implemented by the International Organisation for Migration (IOM) in partnership with several non-governmental organisations. However, in December 2023, HELIOS programme suspended its implementation, but resumed in January 2024.<sup>1418</sup> It's implementation was prolonged until 30 June 2024.<sup>1419</sup>

A total of 45,254 beneficiaries enrolled into HELIOS since the programme first started being implemented (2019) and up to January 2024. Of those, 2,522 were reported as having enrolled into the programme during 2023. In what specifically concerns the programme's rental subsidies, between 2019 and January 2024, a total of 23,384 individuals were able to benefit from the programme's specific component, 2,983 of whom were reported as receiving the rental subsidy in January 2024.<sup>1420</sup>

As it arises from this data, out of the total number of those enrolled to Helios since 2019, roughly only 52% were able to benefit from the programme's housing subsidies up to January 2024. To be noted, amongst the total Helios beneficiaries, 14.1% (roughly 6,380) have been or are beneficiaries of temporary protection<sup>1421</sup>. As of the end of February 2024, 45,688 beneficiaries of international and temporary protection had been registered in the HELIOS programme since its launch. 14% of the total enrolments

<sup>1415</sup> Article 109(1) Asylum Code.

<sup>1416</sup> Greek Parliament, Parliamentary Control, *Reply of Minister of Migration and Asylum, prot. no. 551513/21.12.2023*, "Action "Social Integration of former unaccompanied youth in Greece" (Helios Junior). The action aims to create a specially adapted integration mechanism for third country nationals (approximately 2,000 persons for 3 years), who have reached the age of 18 and were unaccompanied minors, with the aim of facilitating their integration into the labour market and their transition to independent living. The action is expected to start during 2024, with funding from the Asylum, Migration and Integration Fund (AMIF)", available in Greek at: <https://bit.ly/3JA8kTm>, p. 3.

<sup>1417</sup> Intersos Hellas, *Being Hungry in Europe, An analysis of the food insecurity experienced by refugees, asylum seekers, migrants and undocumented people in Greece*, available at: <https://bit.ly/44hEAEe>, p. 22.

<sup>1418</sup> As per updates received during the 22 February National Protection Working Group, which is organised and chaired by UNHCR and co-chaired by GCR.

<sup>1419</sup> General Secretariat for Migration Policy, *Περίληψη 9ης Τροποποίησης της Προγραμματικής Συμφωνίας μεταξύ του Υπουργείου Μετανάστευσης και Ασύλου και του Διεθνούς Οργανισμού Μετανάστευσης για την υλοποίηση του Προγράμματος "HELIOS"*, 39917/2024, 2 February 2024, available in Greek at: <https://bit.ly/3VuObDN>.

<sup>1420</sup> IOM, *HELIOS Factsheet*, 31 January 2024, available at: <https://bit.ly/3y1lvZK>.

<sup>1421</sup> *Ibid.*

still concern Ukrainian nationals covered by temporary protection.<sup>1422</sup> Therefore, the number of beneficiaries of international protection who have benefited or continue to benefit from this type of support (rental subsidy), is probably even lower. In turn, this seems to further highlight ongoing challenges, which have been noted on several occasions by beneficiaries supported by GCR as well, with respect to the ability of beneficiaries of international protection to access this type of support, amongst others, on account of established eligibility criteria.

Specifically, eligibility for enrolment into HELIOS is subject to the following criteria:

- a) recognition as a refugee or beneficiary of subsidiary protection after 1 January 2018; and
- b) official registration and residence in the reception system, *i.e.*, in camps such as Reception and Identification Centres (RIC), Closed Controlled Access Centres (CCAC) or Controlled Temporary Reception Facilities (CTRF), or official municipality shelters or other housing programmes *e.g.*, for victims of trafficking, or a pre-removal detention centre at the time of notification of a positive decision on their asylum claim.<sup>1423</sup>

Beneficiaries also need to enrol into the programme within twelve (12) months from the time they have been notified of their positive asylum decision –subject to the duration of the programme– and, in order to be eligible for the rental subsidy, they also need to first hold a lease agreement in their name,<sup>1424</sup> which, in practice, *inter alia* requires for them to be able to pay at least 1-2 months of rent in advance as a guarantee. As noted by one of GCR’s social workers in Thessaloniki: “*The feedback we receive from the people is that they lack the money to pay the initial rent that is required to be able to access the programme’s [rent] subsidy. This is always an inhibiting factor [they encounter] to be able to choose Helios*”.<sup>1425</sup>

The Ministry of Migration and Asylum operates a Help Deck for Social Integration, which provides information about the Helios project and the Migrant Integration Centers (see below). However, the answers are sent only in Greek or English.<sup>1426</sup>

As it is clear from the above, thousands of beneficiaries of international protection face risks of homelessness due to the strict eligibility criteria of HELIOS program, which, in most cases, they cannot meet. Even those who are successfully enrolled into HELIOS program, are at risk of homelessness after a maximum of one year, when the rental subsidies stop.

There is limited accommodation for homeless people in Greece and no shelters are dedicated to recognised refugees or beneficiaries of subsidiary protection. There is no provision for financial support for living costs. In Athens, for example, there are only three shelters for homeless people, including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted given that these shelters are always overcrowded and have a long waiting list since they are constantly receiving new applications for housing. For example, Multi-Purpose Centre of the Centre for Reception and Solidarity of Athens Municipality (KYADA) only accepts Greek or English speakers due to a lack of interpretation services and does not admit families.<sup>1427</sup> Over 20,000 beneficiaries who had previously been included in the programme have stopped receiving rental subsidies, since the number of households currently benefitting from HELIOS subsidies is 1,612, corresponding to 2,961 persons.<sup>1428</sup>

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<sup>1422</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 22.

<sup>1423</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, pp 21-22.

<sup>1424</sup> IOM, *HELIOS Project Regulations Handbook*, February 2023, available at: <https://bit.ly/3UeKvFv>, pps. 3-4.

<sup>1425</sup> Intersos Hellas, HIAS Greece & GCR, *Being Hungry in Europe, An analysis of the food insecurity experienced by refugees, asylum seekers, migrants and undocumented people in Greece*, May 2023, available at: <https://bit.ly/3KT41TT>, p. 22.

<sup>1426</sup> Ministry of Migration and Asylum, *Help Desk for Social Integration*, available at: <https://bit.ly/44jnF45>.

<sup>1427</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/3Vy9DYJ>, p. 25.

<sup>1428</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 22.

According to GCR's experience, those in need of shelter who lack the financial resources to rent a house remain homeless or reside in abandoned houses or overcrowded apartments, which are on many occasions sublet. This is confirmed by the recent study of Immigration Policy Lab, ETH Zurich, and UCL, commissioned by UNHCR, according to which 44% of refugees are homeless.<sup>1429</sup>

### Return of beneficiaries of international protection to Greece

According to Article 6 of the European Returns Directive (2008/115/EC), third country nationals who have been granted international protection status in Greece can be returned back to Greece when the authorities of another EU country become aware that this person, who is applying again for asylum in their territory, already holds a residence permit in Greece.

In the last period, Dublin returns were completely halted due to the refusal of the Greek state to take back Dublin returnees. In 2022, only a few European member states requested returns based on Dublin to Greece (take back requests 2022: Germany 8.737, Croatia 1.268, Belgium 445, Italy 374 and Sweden 144).<sup>1430</sup>

Upon arrival at Athens International Airport, returnees – beneficiaries of international protection – are provided only with a police note (*υπηρεσιακό σημείωμα*) written in Greek, directing them to the Asylum Service. They have no information on how to renew or re-issue their residence permits (ADETs) and their travel documents. As explained above, they do not have access to any social right in practice (social welfare, employment, health care, housing<sup>1431</sup>), since, in the majority of cases, they do not hold valid identification documents.

As reported by EMN, persons with international protection status returning to Greece will, with considerable probability, not be able to meet their most basic needs there. They will struggle to earn their living independently for a long period of time, and due to a lack of State and other aid, there is a serious risk that they will find themselves in a situation of extreme material need and, in particular, will not be able to afford decent accommodation or be offered some form of reception.<sup>1432</sup>

Several courts in countries such as Germany, the Netherlands and Belgium have halted returns of beneficiaries of international protection to Greece.<sup>1433</sup> However, it has been observed that Germany, Belgium, Switzerland and Sweden returned beneficiaries of international protection to Greece in 2022.<sup>1434</sup>

In the first six months of 2022, Greece received 596 readmission requests for a total of 1,071 beneficiaries. 96 persons were returned through readmission procedures, including 35 from Sweden, 14 from Finland and 10 from France.<sup>1435</sup>

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<sup>1429</sup> ETH Zürich, ipl - immigration policy lab, UCL et al. (Author), published by ReliefWeb: *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at: <https://bit.ly/3UCwSI7>.

<sup>1430</sup> w2eu.info, *Forced returns back to Greece*, January 2024, available at: <https://bit.ly/3xWYT2E>.

<sup>1431</sup> Since, in practice, they are unable to even rent a house legally without valid residence permits and travel documents.

<sup>1432</sup> European Migration Network (EMN), *Secondary movements of beneficiaries of international protection*, September 2022, available at: <https://bit.ly/44ePR8p>, p. 9.

<sup>1433</sup> For further information see the 2022 updates of the respective country reports at: <https://bit.ly/3OFfA4i>. (Germany) Higher Administrative Court of North-Rhine Westphalia, Decision 11 A 1564/20.A, 21 January 2021, available in German at: <https://bit.ly/3WCfeNM>; Higher Administrative Court of Lower Saxony, 10 LB 245/20, 19 April 2021; Higher Administrative Court of Bremen, 1 LB 371/21, 16 November 2021, available in German at: <https://bit.ly/3BWabhG>; (Netherlands) Council of State, 202005934/1/V3, 28 July 2021, available in Dutch at: <https://bit.ly/45I7aiH>; (Belgium) Council of Alien Law Litigation, 259 385, 13 August 2021; Decision 261 291, 28 September 2021, available in Dutch at: <https://bit.ly/45t5CZD>.

<sup>1434</sup> See case studies of readmitted status holders to Greece at RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/3Vy9DYJ>, p. 4-5.

<sup>1435</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/3Vy9DYJ>, p. 3.

Whereas countries such as Germany or the Netherlands have adopted policies opposing deportations of beneficiaries of international protection to Greece apart from exceptional cases, European states still pursue returns of recognised refugees to Greece on the ground that they can enjoy the rights attached to their granted status. Specifically, 158 beneficiaries were returned from Germany to Greece in 2023.<sup>1436</sup>

It is highlighted that on the 6<sup>th</sup> of March 2023, the ECtHR published Application no 2633/23. *J.G. v. Switzerland*. The case concerns an Afghan national who was granted international protection in Greece as a minor and subsequently had to leave the provided accommodation, which caused homelessness. The lack of support by the authorities forced him to beg for food and water and as a result he became a victim of violence. The applicant moved to Switzerland where his asylum application was rejected and return to Greece was ordered. The applicant argues that his return would constitute a violation of Article 3 ECHR as he experienced traumatic events in Greece causing psychological problems and a risk of suicide. Furthermore, he is unlikely to have access to accommodation, medical care, work or assistance upon return to Greece.<sup>1437</sup>

Refugees with a social security number, a tax ID number and, more importantly, those who have opened a bank account are more likely to want to stay in Greece than those who do not have access to these services. For example, 61% of refugees who did not intend to move from Greece already had a Greek bank account, compared with 38% of refugees who intended to move on. As discussed previously, this is not necessarily a causal relationship; we only find a correlation between reported access to the service and onward movement intentions.<sup>1438</sup>

## E. Employment and education

### 1. Access to the labour market

Article 26 Asylum Code provides for full and automatic access to the labour market for recognised refugees and subsidiary protection beneficiaries under the same conditions as nationals, without any obligation to obtain a work permit.

However, as mentioned in [Reception Conditions: Access to the Labour Market](#), high unemployment rates and further obstacles that might be posed by competition with Greek-speaking employees, prevent the integration of beneficiaries into the labour market. Third-country nationals remain over-represented in the relevant unemployment statistical data. Specifically, in December 2023, the total number of the registered unemployed third country nationals was 126.610 according to the Public Employment Service (*Δημόσια Υπηρεσία Απασχολήσεως*).<sup>1439</sup> This number increased in the first month of 2024, as the total number of registered unemployed third country nationals reached 126.382.<sup>1440</sup>

It should be stressed that the aforementioned numbers include all third – country nationals and as a result there is a lack of information on the (un)employment rates of beneficiaries of international protection.

In a survey conducted by UNHCR from July 2022 until June 2023 with 424 beneficiaries of international protection, employment was reported as beneficiaries' top need (73%)<sup>1441</sup> Specifically, of those asked,

<sup>1436</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3Vy9DYJ>, p. 4.

<sup>1437</sup> See European Legal Network on Asylum (ELENA), *ECtHR communicated case: Compatibility of return from Switzerland to Greece with Article 3*, 6 March 2023, available at: <https://bit.ly/3Qlsbcl>.

<sup>1438</sup> ETH Zürich, ipl - immigration policy lab, UCL et al. (Author), published by ReliefWeb: *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at: <https://bit.ly/3UCwSl7>.

<sup>1439</sup> Public Employment Service (Δ.Υ.Π.Α.), *Data on unemployed and subsidised persons*, December 2023, available in Greek at: <https://bit.ly/3we5rEL>.

<sup>1440</sup> Public Employment Service (Δ.Υ.Π.Α.), *Data on unemployed and subsidised persons*, January 2024, available in Greek at: <https://bit.ly/3we5rEL>.

<sup>1441</sup> UNHCR, *Key Findings: July 2022 – June 2023 Protection Monitoring of Refugees in Greece*, August 2023, available at: <https://bit.ly/4dgyE2l>.

29% reported working at the time of the interview or having worked in the four weeks preceding the interview. Of those, 17% had regular work and 12% worked occasionally. Furthermore, respondents stated that the main obstacles to finding work were not speaking Greek, not finding legal employment, and missing key documents. These affected 74% of those interviewed. Lack of childcare was reported as the fourth challenge and affected in particular women with young children (0-4 years old). Of this group, 56% stated that lack of childcare hampers their ability to work.<sup>1442</sup> As a result, many beneficiaries of international protection work as irregular peddlers, since it is very difficult to obtain the special work permit required for this profession. Hence, they risk to be fined and jailed.

As explained above, pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for six months. In practice this certificate does not allow them to access the labour market and many of them are losing their jobs as soon as their residence permit expires. Furthermore, according to GCR experience, recently recognised beneficiaries of international protection are considered by the electronic system ERGANI (*ΕΡΓΑΝΗ*) as asylum seekers pending the issuance of their first residence permit, since they still hold their asylum seekers card. This malpractice has prevented beneficiaries of international protection from fully accessing labour market until they are served their residence permit. This is contrary to Article 26 Asylum Code, as they should be able to access the labour market freely from the first day of their recognition.

According to the Greek Government, an action "Promoting the integration of the refugee population in the labour market", under the Recovery and Resilience Fund has been designed by the Ministry of Migration and Asylum, taking into account the need for an integration programme of the refugee population into the labour market. The implementation of the action started during the year 2022, has a duration of three years and will serve 18,000 beneficiaries, mainly beneficiaries of international protection, but also legally resident third-country nationals. The sub-projects of the action are linked to 8 different sectors: the agricultural sector, the construction sector, the tourism sector, women's employment, care and assistance to elderly people, and the employment of women, assistance to vulnerable groups, the prevention and combating of trafficking in human beings, the protection of the environment and civil protection. The action includes educational and professional profiling of the beneficiaries, language and intercultural training, job counselling, vocational training, internships, certification of professional skills and information and awareness-raising campaigns.<sup>1443</sup>

However, to date, there are no available data on this Action. In any case, it must be underlined that this Action is not addressed solely to beneficiaries of international protection, but to all legally residing third – country nationals.

Further to the above, as found in the aforementioned study of ETH Zürich, Immigration Policy Lab and UCL, 6% of refugees are forced to work, while 4% of refugees reported that their documents are held against their will.<sup>1444</sup> An additional challenge facing refugees in Greece is not only finding work, but also finding work with safe and dignified conditions. According to the study, 48% of those refugees who reported working at the time of the study, worked with formal contracts.<sup>1445</sup>

## 2. Access to education

Children beneficiaries of international protection have an obligation to study at primary and secondary education institutions of the public education system, under the same conditions as nationals.<sup>1446</sup> Similar to [Reception Conditions: Access to Education](#), the new Asylum Code refers not to a right to education but

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<sup>1442</sup> Ibid.

<sup>1443</sup> Greek Parliament, Parliamentary Control, *Reply of Minister of Migration and Asylum*, prot. no. 551513/21.12.2023.

<sup>1444</sup> ETH Zürich, ipl - immigration policy lab, UCL et al. (Author), published by ReliefWeb: *Home for Good? Obstacles and Opportunities for Refugees and Asylum Seekers in Greece*, December 2023, available at: <https://bit.ly/3UCwSI7>.

<sup>1445</sup> Ibid.

<sup>1446</sup> Article 27(1) Asylum Code.

to a duty for beneficiaries of international protection. In case of violation of this obligation, the penalties provided for Greek citizens are imposed on the adult members of the minor's family.<sup>1447</sup>

Adult beneficiaries are entitled to access the education system and training programmes under the same conditions as legally residing third-country nationals.<sup>1448</sup> The official number of children beneficiaries of international protection enrolled in formal education is not known. However, only a fraction of data is available through the aforementioned UNHCR survey conducted from July 2022 to June 2023 with 424 beneficiaries of international protection. According to the survey, the rate of school-aged children living with their families and attending formal education is 71% during the reporting period.<sup>1449</sup>

In Greece there are thirteen intercultural primary schools and thirteen intercultural high-schools with preparatory classes.<sup>1450</sup>

According to the Ministry of Migration and Asylum, the program "All Children in Education" should provide children of refugee and migrant families residing in the country with support for their smooth integration into Greek public education. Within the framework of a Memorandum of Understanding between the Ministry of Migration and Asylum and UNICEF (United Nations Children's Fund), the program "All Children in Education" is being developed. The aim of the programme is to reach, facilitate and support the children of migrants and refugees in order to improve their education, school readiness and access to education through the operation of "Centres for children and refugees". Moreover, the 'Study and Creative Activity Centres' operate where reside migrant and refugee families, in order to support and facilitate the smooth access of migrants and refugees' children (4-17 years old) to school and their continued education. In these centres, children are taught the Greek and English language, among other courses, by qualified teachers, educators and volunteers from UNICEF network agencies, that enhance their formal education education in public school.<sup>1451</sup>

The Accelerated Learning Program (ALP) was developed by a tripartite cooperation between the University of Thessaly, UNICEF and the Institute of Educational Policy, in order to address the issues of educational inclusion in lower secondary education (Gymnasium) for adolescents with refugee or migrant background. Most students, in addition to the challenge of learning the language of the school, face significant obstacles in attending other subjects, often due to more or less extended periods of time spent out of education in their country of origin, during the refugee route and during their first period of residence in Greece. The lessons taught are Biology, History, Social and Civic Education, Mathematics, Physics and Chemistry.<sup>1452</sup>

The Ministry of Education, Religious Affairs and Sports announced a call for teachers of Primary and Secondary Education, who wish to be seconded to Regional Directorates of Primary and Secondary Education, in order to be appointed as Refugee Education Coordinators during the school year 2023 - 2024 at the Accommodation Centres / Facilities.<sup>1453</sup>

Migrant Integration Centres (M.I.C.), which were established by law 4368 (ΦΕΚ 21 Α', 2016) and function as branches of Community Centers in municipalities, provide, inter alia, language learning and training (Lessons in Greek language, history, and culture which are offered to adults who are either migrants or beneficiaries of international protection. Intercultural activities which facilitate the co-existence between third-country children/young people and native children/ young people. Activities that facilitate third-country nationals' access to the job market).

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<sup>1447</sup> Article 27(1) Asylum Code.

<sup>1448</sup> Article 27(2) Asylum Code.

<sup>1449</sup> UNHCR, *Key Findings: July 2022 – June 2023, Protection Monitoring of Refugees in Greece*, August 2023, available at: <https://bit.ly/4dgyE2l>.

<sup>1450</sup> Intercultural Schools, available in Greek at: <https://bit.ly/3waqqqs1>.

<sup>1451</sup> Greek Parliament, Parliamentary Control, *Reply of Ministrer of Migration and Asylum*, prot. no. 551513/21.12.2023.

<sup>1452</sup> Ministry of Education, *Religious Affairs and Sports*, available in Greek at: <https://bit.ly/3JAoNH5>.

<sup>1453</sup> Ministry of Education, Religious Affairs and Sports, Call prot. no. 117949/E2, 20 October 2023, available in Greek at: <https://bit.ly/3QIWWds>.



In Greece, there are eleven Migration Centers in: Athens, Piraeus, Kallithea, Thessaloniki, Kordelio-Evosmos, Thebes, Lamia, Andravida-Kyllini, Heraklion-Crete, Lesvos and Trikala.<sup>1454</sup>

However, the demand for their services is exceeding their capacity. Suffice it to mention that for Athens, where a large part of the refugee population is concentrated, there is only one migrant integration center, which by its nature serves not only beneficiaries of international protection but all third-country nationals.

Furthermore, according to UNHCR's aforementioned survey "[o]f the refugee population in Greece, 18% have University-level or higher education."<sup>1455</sup>

To date, the D.O.A.T.A.P – Hellenic National Academic Recognition and Information Centre (Hellenic NARIC), the official body of the Hellenic Republic for the academic recognition of titles and qualifications awarded by foreign Higher Education Institutions has not provided any exceptions from its extremely strict requirements for the recognition of university degrees of beneficiaries of international protection.

The following requirements must be met and submitted: a legally certified copy of High School Diploma and translation in Greek; a legally certified copy of the degree to be recognised and its official translation in Greek; a legally certified copy of the official transcript of records (grades from all subjects and from all the years of study, signed and stamped by the University, stating the date of award) and its official translation in Greek; the University Certificate.<sup>1456</sup> Moreover, L. 4957/2022 establishes the National Register of Recognised Higher Education Institutions of Foreign Countries and the National Register of Types of Degrees of Recognised Higher Education Institutions of Foreign Countries, which includes extremely difficult conditions to be met by the refugees for the inclusion of their universities in it.<sup>1457</sup> These requirements are impossible to be met by the vast majority of beneficiaries of international protection. Thus, most of them cannot continue their education in their field of studies.

In 2022, a total of 9,224 applications for recognition of titles and qualifications awarded by non-Greek Higher Education Institutions were submitted to DOATAP. A total of 11,472 diploma recognition documents were issued. There are no statistics specific to beneficiaries of international protection. Furthermore, DOATAP has not yet published data for 2023.<sup>1458</sup>

## F. Social welfare

The law provides access to social welfare for beneficiaries of international protection without drawing any distinction between refugees and beneficiaries of subsidiary protection. Moreover, beneficiaries of international protection should enjoy the same rights and receive the necessary social assistance according to the terms that apply to nationals, without discrimination.<sup>1459</sup>

### Types of social benefits

The Commission has decided to open an infringement procedure by sending a letter of formal notice to Greece (INHCR(2022)2044) for failing to transpose in a fully conform manner all provisions of the Directive on standards for the qualification of third-country nationals and stateless persons as beneficiaries of international protection (Directive 2011/95EU). Specifically, the concerns of the European Commission regarded potential infringements by Greece of Article 29(1) of Directive 2011/95/EU vis-à-vis the rights of beneficiaries of international protection and, in particular, their access to social welfare after granting international protection.<sup>1460</sup>

<sup>1454</sup> Ministry of Migration and Asylum, *Migrant Integration Centers*, available at: <https://bit.ly/4dhsrDC>.

<sup>1455</sup> UNHCR, *Key Findings: July 2022 – June 2023, Protection Monitoring of Refugees in Greece*, August 2023, available at: <https://bit.ly/4dgyE2l>.

<sup>1456</sup> DOATAP website available at: <https://bit.ly/3q8RqET>.

<sup>1457</sup> Article 304 L.4957/2022.

<sup>1458</sup> DOATAP website, *Statistics*, available in Greek at: <https://bit.ly/3UfX4R1>.

<sup>1459</sup> Articles 28 and 29 Asylum Code.

<sup>1460</sup> European Commission, (INFR(2022)2044) C(2023) 110 final, 26 January 2023.

In order to have access to social benefits in Greece (see below), a beneficiary of international protection must have lived legally and permanently in Greece for a minimum of five years but, depending on the social benefit, this requirement can extend to more than a decade of permanent legal stay. As to the reasons for such requirements, which can amount to indirect discrimination against beneficiaries of international protection in Greece, the Ministry of Labour and Social Affairs explained, in response to a Parliamentary question concerning *inter alia* the childbirth allowance, “*this choice is the product of reflection on the economic repercussions of such a measure under inflexible financial conditions*”.<sup>1461</sup>

**Housing allowance:** Housing allowance is provided to families that can demonstrate five years of permanent, uninterrupted and legal stay in Greece.<sup>1462</sup> As a result, the majority of beneficiaries of international protection are excluded from this benefit.

**Single mother allowance:** The allowance for single mothers is provided to those who can provide proof of their family situation, *e.g.*, divorce, death certificate, birth certificate. With no access to the authorities of their country, many mothers are excluded because they cannot provide the necessary documents.

**Single child allowance:** The single child support allowance replaced the pre-existing housing allowance and is provided explicitly to refugees or beneficiaries of subsidiary protection, that can demonstrate five years of permanent, uninterrupted and legal stay in Greece.<sup>1463</sup>

**Birth allowance:** The birth allowance is granted to any mother who is legally and permanently residing in Greece and amounts to € 2,000 for every child born in Greece. Third country nationals are entitled to receive this allowance if they can demonstrate 12 years of permanent stay in Greece. Exceptionally for the births that will take place in the years 2020-2023 the allowance will be granted to any mother – third country national, who has been permanently residing in Greece since 2012. The permanent stay is proved with the submission of tax declarations. Hence, the vast majority of beneficiaries of international protection are practically excluded from this benefit.<sup>1464</sup>

**Student allowance:** Beneficiaries of international protection are excluded by law from the social allowance granted to students, which amounts to €1,000 annually. According to the law, this allowance is provided only to Greek nationals and EU citizens.<sup>1465</sup>

**Disability benefits:** Beneficiaries of international protection with disabilities also face great difficulties in their efforts to access welfare benefits. First, they have to be examined by the Disability Accreditation Centre to assess whether their disability is at a level above 67%, in order to be eligible for the Severe Disability Allowance.<sup>1466</sup> Even if this is successfully done, there are often significant delays in the procedure.

The **guaranteed minimum income** (*ελάχιστο εγγυημένο εισόδημα*),<sup>1467</sup> formerly known as Social Solidarity Income (*Κοινωνικό Επίδομα Αλληλεγγύης “ΚΕΑ”*), established in February 2017 as a new welfare programme regulated by Law 4389/2016).<sup>1468</sup> The guaranteed minimum income is € 200 per month for each household, plus €100 per month for each additional adult of the household and € 50 per month for each additional child of the household. It is a necessary safety net to combat the effects of poverty and prevent social exclusion.<sup>1469</sup>

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<sup>1461</sup> Ministry of Labour and Social Affairs, Reply to parliamentary question by KINAL, 27512/2023, 14 March 2023.

<sup>1462</sup> Article 3(6) Law 4472/2017, inserted by Article 17 Law 4659/2020. Residence is established based on the submission of tax declarations within the requisite deadlines.

<sup>1463</sup> Article 214 Law 4512/2018, as amended by Article 15 Law 4659/2020.

<sup>1464</sup> Articles 1 and 7 Law 4659/2020.

<sup>1465</sup> Article 10 L 3220/2004.

<sup>1466</sup> JMD Γ4α/Φ. 225/161, Gov. Gazette 108/B/15.2.1989.

<sup>1467</sup> Article 29(2) Law 4659/2020, Gov. Gazette A' 21/3.2.2020.

<sup>1468</sup> Article 235 Law 4389/2016. See also ΚΕΑ, ‘Πληροφορίες για το ΚΕΑ’, available in Greek at: <http://bit.ly/2HcB6XT>.

<sup>1469</sup> ΟΠΕΚΑ, *Guaranteed minimum income (Ελάχιστο Εγγυημένο Εισόδημα)*, available in Greek at: <https://opeka.gr/elachisto-engyimeno-eisodima/>.

Unfortunately, except for the “guaranteed minimum income”, there are no other effective allowances in practice. There is no provision of State social support for vulnerable cases of beneficiaries such as victims of torture. The only psychosocial and legal support addressed to the identification and rehabilitation of torture victims in Greece is offered by three NGOs, GCR, Day Centre Babel and MSF, which means that the continuity of the programme depends on funding.

**Uninsured retiree benefit:** Retired beneficiaries of international protection, in principle have the right to the Social Solidarity Benefit of Uninsured Retirees.<sup>1470</sup> However, the requirement of 15 years of permanent residence in Greece in practice excludes from this benefit seniors who are newly recognised beneficiaries. The period spent in Greece as an asylum seeker is not calculated towards the 15-year period, since legally the application for international protection is not considered as a residence permit. According to GCR’s knowledge, uninsured recognized refugees are asked to provide a recent certificate from the competent consulate of their country, officially translated and legally certified proving whether they receive any pension from their country of birth. This certificate is impossible to obtain since refugees are persecuted and can not address any diplomatic authority of their country of origin. In case they address the diplomatic authority of their country of origin they are at risk of revocation of their refugee status.

Housing assistance allowance for uninsured elderly persons: Retired beneficiaries of international protection, in principle have the right to this allowance, if they demonstrate 12 years of permanent stay in Greece<sup>1471</sup>

The granting of social assistance is not conditioned on residence in a specific place.

## G. Health care

Free access to health care for beneficiaries of international protection is provided under the same conditions as for nationals,<sup>1472</sup> pursuant to Law 4368/2016. Despite the favourable legal framework, actual access to health care services is hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as a result of the austerity policies followed in Greece, as well as the lack of adequate cultural mediators. Moreover, administrative obstacles with regard to the issuance of a Social Security Number (AMKA) also impede access to health care. In addition, according to GCR’s experience, beneficiaries of international protection for whom the competent authority is the Headquarters of the Hellenic Police and who hold the “old type” of residence permit in the form of a “booklet”, have encountered problems in the issuance of AMKA, as this old residence permit contains a number written in a different format than the new residence permits. Hence, the civil servants did not know how to process the issuance of AMKA.

According to the new JMD entering into force in December 2023,<sup>1473</sup> the grant of AMKA is conditioned upon possession of a “valid residence title in the country with labour market access”.<sup>1474</sup> The requirement of a “valid” residence permit creates substantial obstacles, given that AMKA is deactivated upon (a) interruption of lawful residence in the country; or (b) interruption of access to the labour market; or (c) interruption of actual residence in the country, except for minor beneficiaries; or (d) deactivation of A.M.K.A. of the directly insured person, in the case of indirectly insured persons adults or minors<sup>1475</sup>. “Specifically as regards deactivation due to non-legal residence in the country, [deactivation] shall

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<sup>1470</sup> Article 93 Law 4387/2016.

<sup>1471</sup> Article 2(1)(b) JMD 30105/25.05.2021, Gov. Gazette B 2156/25.05.2021.

<sup>1472</sup> Article 30(2) Asylum Code.

<sup>1473</sup> JMD Φ80320/109864/14.12.2023, Gov. Gazette B’ 7280/22.12.2023.

<sup>1474</sup> Article 3(a) of JMD Φ80320/109864/14.12.2023. See RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3KT41TT>, p. 20.

<sup>1475</sup> Article 7(1) JMD Φ80320/109864/2023.

automatically take place on the day following the expiry of validity of the residence title, in the absence of renewal, extension or withdrawal of the status of international or temporary protection".<sup>1476</sup>

According to Guidelines provided by the Registration Department of the Insurance Directorate of the General Directorate for Contributions, "the service of third country nationals for the issuance - activation - re-activation of AMKA will be provided by the Ministry of Migration and Asylum by 22.12.2024. Until this date, third country nationals will be served by e-EFKA and Citizens' Service Centres" (Κέντρα Εξυπηρέτησης Πολιτών - KEPS).<sup>1477</sup>

It should be noted that, in the Guidelines of the Ministry of Labour and Social Affairs, there are neither specimens of residence permits of beneficiaries of international protection issued by the Headquarters of the Hellenic Police, nor specimens of certificates of submission of renewal applications of residence permits for both beneficiaries of international protection granted international protection status either by the Asylum Service or the Headquarters of the Hellenic Police.<sup>1478</sup>

The Ministerial Decision 12184/2022 that came into effect on 16 March 2022 provided that the prescription of medicines, therapeutic operations and diagnostic examinations for patients without health insurance will be possible, only by doctors of public hospitals and Primary Health Care structures.<sup>1479</sup> This Ministerial Decision affected the vast majority of beneficiaries of international protection, since most of them do not have health insurance and will therefore no longer be able to visit private doctors.

As of July 1, 2022, it is impossible for private doctors to prescribe the uninsured patients under Article 38 Law 4865/2021,<sup>1480</sup> in conjunction with Ministerial Decision (M.D) 30268/30-05-2022.<sup>1481</sup> The exception from this provision are : a. Uninsured people up to 18 years old. b. Uninsured patients with intellectual or mental disabilities, autism, down syndrome, bipolar disorder, depression with psychotic symptoms, cerebral palsy or severe and multiple disabilities, amputees who receive the extra-institutional allowance with a disability rate of 67% or more, as well as those who have a certified disability of 80% or more, for any condition.c. Uninsured patients with conditions included in the list of diseases for which medicinal products are administered with reduced or no contribution by the insured person, including patients suffering from AIDS d. The prescription of all vaccines without exception to all uninsured patients.<sup>1482</sup> All the above apply to every person residing legally in Greece and there is no specific provision for beneficiaries of international protection.

As of March 2023, the "Evangelismos" General Hospital of Athens, the "Aiginio" Hospital and "Dromokaitio" Psychiatric Hospital of Athens had no interpreters. Conversely, the "Dafni" Psychiatric Hospital of Athens only had interpretation for Arabic and the "Alexandra" General Hospital of Athens covered Arabic, Farsi, French and Lingala.<sup>1483</sup> Thus, access to health care is extremely difficult is for beneficiaries of international protection.

According to a survey conducted by UNHCR from July 2022 until June 2023 with 424 beneficiaries of international protection "Twenty-nine per cent of respondents had difficulty accessing healthcare because of language barriers, challenges to securing appointments and lack of information on the national health care system", while the number of households that have at least one member with specific needs is 36%.

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<sup>1476</sup> Article 7(2) JMD Φ80320/109864/2023. See RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2024, available at: <https://bit.ly/3KT41TT>, p. 20.

<sup>1477</sup> Registration Department of the Insurance Directorate of the General Directorate for Contributions, Παροχή Οδηγιών για την απόδοση και τη λειτουργία του Αριθμού Μητρώου; Κοινωνικής Ασφάλισης (AMKA), prot. no. 530132, 10 April 2024, available in Greek at: <https://bit.ly/3xmJ3ts>.

<sup>1478</sup> Ministry of Labour and Social Affairs, Οδηγίες για την απόδοση και τη λειτουργία του Αριθμού Μητρώου Κοινωνικής Ασφάλισης (AMKA), prot. no. Φ80320/25192, 01 April 2024, available in Greek at: <https://bit.ly/3RBmkRb>.

<sup>1479</sup> Ministerial Decision 12184/2022, Gov. Gazette 899/B/28.2.2022.

<sup>1480</sup> Law 4865/2021, Gov. Gazette 238/A/04-12-2021.

<sup>1481</sup> Ministerial Decision 30268/30-05-2022, Gov. Gazette, B', 2673/31.05.2022.

<sup>1482</sup> Art. 11(1) Ministerial Decision 30268/30-05-2022 Gov. Gazette 2673, B', 31-05-2022.

<sup>1483</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece, Access to documents and socio-economic rights*, March 2023, available at: <https://bit.ly/3KT41TT>, p. 26.

Chronic illnesses, mental health issues and physical disabilities are the top three reported vulnerabilities.<sup>1484</sup>

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<sup>1484</sup> UNCHR, *Key Findings: July 2022 – June 2023 Protection Monitoring of Refugees in Greece*, August 2023, available at: <https://bit.ly/4dgyE2l>.

## ANNEX I – Transposition of the CEAS in national legislation

### Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	Initial transposition PD 141/2013, Gov. Gazette A' 226/21-10-2013	<i>‘Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13ης Δεκεμβρίου 2011 (L 337) σχετικά με τις απαιτήσεις για την αναγνώριση και το καθεστώς των αλλοδαπών ή των ανιθαγενών ως δικαιούχων διεθνούς προστασίας, για ένα ενιαίο καθεστώς για τους πρόσφυγες ή για τα άτομα που δικαιούνται επικουρική προστασία και για το περιεχόμενο της παρεχόμενης προστασίας (αναδιτύπωση)’</i>	<a href="https://bit.ly/3Xu7U96">https://bit.ly/3Xu7U96</a>
		Legislation in force L. 4939/2022, Gov. Gazette A' 111/10-6-2022	<i>‘Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών’</i>	<a href="https://bit.ly/3Xtj6CY">https://bit.ly/3Xtj6CY</a>

<p><b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive</p>	<p>20 July 2015</p>	<p>Initial transposition L. 4375/2016, Gov. Gazette A' 51/03-04-2016</p> <p>Legislation in force L. 4939/2022, Gov. Gazette A' 111/10-6-2022</p>	<p><i>‘Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιτύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις’</i></p> <p><i>Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών’</i></p>	<p><a href="https://bit.ly/4eur8S3">https://bit.ly/4eur8S3</a></p> <p><a href="https://bit.ly/3Xtj6CY">https://bit.ly/3Xtj6CY</a></p>
<p><b>Directive 2013/33/EU</b> Recast Reception Conditions Directive</p>	<p>20 July 2015</p>	<p>Initial transposition L. 4636/2019, Gov. Gazette A' 169/ 01-11-2019</p> <p>Legislation in force L. 4939/2022, Gov. Gazette A' 111/10-6-2022</p>	<p><i>Περί Διεθνούς Προστασίας και άλλες διατάξεις</i></p> <p><i>Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών’</i></p>	<p><a href="https://bit.ly/4cqEptk">https://bit.ly/4cqEptk</a></p> <p><a href="https://bit.ly/3Xtj6CY">https://bit.ly/3Xtj6CY</a></p>
<p><b>Regulation (EU) No 604/2013</b> Dublin III Regulation</p>	<p>Directly applicable 20 July 2013</p>			

The following section contains characteristic incompatibilities in transposition of the CEAS in national legislation which were previously identified in IPA and are maintained in Asylum Code.

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
<b>Directive 2011/95/EU</b> Recast Qualification Directive	29(1)	Article 29 Asylum Code	Article 29 Asylum Code maintaining previous relevant provisions transposing article 29(1) Directive 2011/95/EU, foresees that beneficiaries have access to social welfare under the same conditions as Greek nationals. Though the letter of the law is positive and does not make use of derogations allowed under the Directive, conditions for accessing social benefits provided under Greece's welfare policies and in particular requirements of previous legal stay for a minimum of 5 years that must be fulfilled, make it void in practice, leading to indirect discrimination against beneficiaries of international protection.
	23(2)	Article 23(4) in conjunciton with article 22(2) Asylum Code	In the case of families created after arrival to Greece: <ul style="list-style-type: none"> <li>- in order for the spouses of the beneficiary to be eligible to be granted a residence permit they must already hold a valid residence permit at the time the marriage or civil partnership was conducted.</li> <li>- Furhtermore, parents of underage beneficiaries are not eligible for residence permits</li> <li>- While beneficiaries' children need to have been born in Greece, in order to be eligible for a residence permit.</li> </ul>
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	31(8)	Article 88(9)ia Asylum Code	Asylum Code maintains IPA's provision (Article 83(9)) which exceeds the permissible grounds for applying the accelerated procedure, given that it foresees as ground for using the procedure cases where the applicant refuses to comply with the obligation to be fingerprinted under domestic legislation.
	38 (2)	Article 91(1)f Asylum Code	Article 91(1)f Asylum Code maintains article 86(1)(f) IPA, with regards the safe third country concept, and provides that transit through a third country may be considered as such a "connection" in conjunction with specific circumstances, on the basis of which it would be reasonable for that person to go to that country. In <i>LH</i> the CJEU ruled that "the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country", C-564/18 (19 March 2020), which sheds doubts on the compatibility of the provision with Article 38(2) of the Directive. Moreover, contrary to Article 38(2) of the Directive, national law does not foresee the methodology to be



			followed by the authorities in order to assess whether a country qualifies as a “safe third country” for an individual applicant.
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